



28 the definition of an "unattended death";

29         • allow a physician assistant to certify cause of death in certain instances; and

30         • require the state medical examiner to provide a copy of a final report of

31 examination to a physician assistant, upon written request by the physician

32 assistant;

33         ▶ amends the Utah Communicable Disease Control Act to include a physician

34 assistant among those:

35             • from whom the Department of Health suggests a person should seek screening

36 for a sexually transmitted disease;

37             • to whom a person with venereal disease is required to report;

38             • recognized to provide medical care or services to a minor who may be afflicted

39 with a sexually transmitted disease;

40             • to whom a person may be required by the Department of Health to report at the

41 time of the expiration of the person's term of imprisonment; and

42             • authorized to take a blood sample from a pregnant or recently delivered woman;

43         ▶ amends the Utah Health Code to include a physician assistant among those who

44 may find that an individual or group is subject to examination, treatment, isolation,

45 or quarantine;

46         ▶ amends the Utah Emergency Medical Services System Act by:

47             • amending the composition of the Trauma System Advisory Committee within

48 the Department of Health; and

49             • extending certain immunities to a physician assistant;

50         ▶ amends the composition of certain committees within the Utah Statewide Stroke

51 and Cardiac Registry Act to include physician assistants;

52         ▶ amends the Utah Health Code to include a physician assistant among those whose

53 diagnosis of hearing loss in a child younger than six years old satisfies a

54 requirement for obtaining hearing aids from a program offered by the Department of

55 Health;

56         ▶ amends the Medical Assistance Act to prohibit a pharmacist from altering an

57 outpatient drug therapy prescribed by a physician assistant without the consent of

58 the physician assistant;

- 59           ▶ amends the Health Care Facility Licensing and Inspection Act to include a physician  
60 assistant in certain definitions;
- 61           ▶ amends the Revised Uniform Anatomical Gift Act to include a physician assistant  
62 who:
- 63           • attends a decedent's death and a physician assistant who determines the time of a  
64 decedent's death among those who are prohibited from participating in the  
65 procedures for removing or transplanting a part from the decedent; and
- 66           • is qualified to remove a donated part from the body of a donor among those  
67 authorized to remove the part;
- 68           ▶ amends the Utah Health Data Authority Act definition of "health care provider" to  
69 include a physician assistant;
- 70           ▶ amends the Family Planning Access Act to permit a physician assistant to issue  
71 certain standing prescription orders;
- 72           ▶ amends the Insurance Code to include:
- 73           • certain physician assistants among those from whom an insured may be required  
74 by a health insurance policy to select as a primary care provider; and
- 75           • certain consultations involving a physician assistant among the telepsychiatric  
76 consultations that must be covered by a health benefit plan that offers coverage  
77 for mental health services;
- 78           ▶ amends the Motor Vehicle Act to include a physician assistant among those who  
79 may certify specified information about a person with a disability who is applying  
80 for a disability special group license plate, a temporary removable windshield  
81 placard, or a removable windshield placard;
- 82           ▶ amends the Traffic Code to include a physician assistant among those who may  
83 administer certain chemical tests or draw blood under certain circumstances;
- 84           ▶ amends the Motor Vehicle Safety Belt Usage Act to include a physician assistant  
85 among those who may provide written verification that an operator or passenger of a  
86 motor vehicle is unable to wear a safety belt for physical or medical reasons;
- 87           ▶ amends the Unincorporated Business Entity Act definition of "professional  
88 services" to include a personal service provided by a physician assistant;
- 89           ▶ amends the Public Employees' Contributory Retirement Act to include a physician

90 assistant among those who may be appointed by the Utah State Retirement Board to conduct  
91 certain medical examinations;

92       ▶ amends the Firefighters' Retirement Act to include a physician assistant among  
93 those who may make certain evaluations, diagnoses, and recommendations;

94       ▶ amends the Public Employees' Long-Term Disability Act to include a physician  
95 assistant among those:

- 96           • under whom an eligible employee may receive ongoing care and treatment; and
- 97           • who may set forth the limitations of an office-approved rehabilitation program;

98       ▶ amends the Statewide Mutual Aid Act definition of "emergency responder" to  
99 include a physician assistant;

100       ▶ amends the Uniform Driver License Act definition of "health care professional" to  
101 include a physician assistant;

102       ▶ amends the Criminal Investigations and Technical Services Act to include a  
103 physician assistant among those who may draw a blood sample in a medically  
104 acceptable manner;

105       ▶ permits a physician assistant among those who may certify that a school-age minor  
106 is in a physical or mental condition which makes school attendance inexpedient and  
107 impracticable;

108       ▶ permits a physician assistant to:

- 109           • receive information from a behavioral health information form completed by  
110 school personnel at the request of a student's parent;

111           • be included in a list of health care providers that a school counselor or other  
112 mental health professional working within a school system may provide to a  
113 parent or guardian;

114           • permit a student to possess or self-apply certain sunscreens;

115           • train nonlicensed volunteers to administer glucagon; and

116           • train a nonlicensed school employee who volunteers to administer a seizure  
117 rescue medication;

118       ▶ amends the Public Telecommunications Law to include a physician assistant among  
119 those who may certify that a state resident is deaf, hard of hearing, or severely  
120 speech impaired;

- 121 ▶ amends the Division of Occupational and Professional Licensing Act:
- 122 • definition of "licensed services" to include the provision of behavioral health  
123 treatment within the scope of practice of a physician assistant;
- 124 • to require the Department of Health to establish certain procedures to authorize  
125 the dispensing, administration, or distribution of a vaccine, an antiviral, an  
126 antibiotic, or other prescription medication; and
- 127 • definition of "anatomic pathology services" to include certain services  
128 performed or requested by a physician assistant;
- 129 ▶ amends the Utah Controlled Substances Act to require certain physician assistants  
130 to keep certain records;
- 131 ▶ amends the Speech-Language Pathology and Audiology Licensing Act to exempt  
132 certain physician assistants from the licensing requirement;
- 133 ▶ amends the Hearing Instrument Specialist Licensing Act to:
- 134 • exempt certain physician assistants from the licensing requirement; and  
135 • permit a physician assistant to receive certain referrals and issue certain  
136 prescriptions;
- 137 ▶ amends the Massage Therapy Practice Act to exempt a physician assistant from the  
138 licensing requirement;
- 139 ▶ amends the Mental Health Professional Practice Act to exempt physician assistants  
140 from certain licensing requirements;
- 141 ▶ amends the Psychologist Licensing Act to include a physician assistant engaged in  
142 the practice of mental health therapy in the definition of "mental health therapist";
- 143 ▶ renames the Physician Assistant Act as the Utah Physician Assistant Act;
- 144 ▶ amends the membership requirements for the Physician Assistant Licensing Board;
- 145 ▶ amends the Genetic Counselors Licensing Act to exempt certain physician assistants  
146 from the licensing requirement;
- 147 ▶ amends the Utah Human Services Code to permit a physician assistant to:
- 148 • take photographs of the areas of trauma visible on a child and, if medically  
149 indicated, perform radiological examinations;
- 150 • examine or treat a child for certain protective custody determinations;
- 151 • certify an intellectual disability for the purpose of determining the need for

152 protective custody; and

153           • examine an individual and certify that an individual has an intellectual disability

154 and is in need of involuntary commitment;

155           ▶ amends the Substance Abuse and Mental Health Act to permit a physician assistant

156 to:

157           • make certain medical determinations;

158           • make arrangements for the transport of an adult by ambulance to a facility

159 designated by a local mental health authority for temporary commitment;

160           • certify that a proposed patient has a mental illness and should be involuntarily

161 committed;

162           • serve as a designated examiner; and

163           • determine that medical need requires certain prescription medications;

164           ▶ permits a physician assistant's orders to be used for:

165           • a commitment proceeding for a child;

166           • determining whether a person is "incapable"; and

167           • making certain treatment plans operative;

168           ▶ adds physician assistants to the declaration for mental health treatment form;

169           ▶ amends the Government Records Access and Management Act to include a

170 physician assistant among those to whom a governmental entity shall, under certain

171 conditions, disclose a controlled record upon request;

172           ▶ amends the Pete Suazo Utah Athletic Commission Act to include a physician

173 assistant in certain definitions;

174           ▶ allows a physician assistant to serve on a Children's Justice Center local advisory

175 board or the Advisory Board on Children's Justice;

176           ▶ amends the Utah Uniform Probate Code to allow a physician assistant to:

177           • be appointed by a court to examine a person alleged to be incapacitated;

178           • conduct an independent evaluation of a resident of the Utah State

179 Developmental Center who is the subject of guardianship proceedings; and

180           • evaluate an incapacitated minor for the purpose of determining the need for

181 guardianship;

182           ▶ amends the Uniform Power of Attorney Act to include a physician assistant among

- 183 those who may make certain medical determinations;
- 184       ▶ amends the Utah Criminal Code to:
- 185           • permit a physician assistant to provide certain medical services;
- 186           • amend the definition of "abuse" to include certain actions toward a vulnerable
- 187 adult that are in conflict with a physician assistant's orders;
- 188           • amend the definition of "isolation" of a vulnerable adult to exempt acts
- 189 performed under the instructions of a physician assistant; and
- 190           • specify that certain sexual offenses committed by a "health professional" include
- 191 offenses committed by a physician assistant;
- 192       ▶ amends the Bus Passenger Safety Act to exempt the ingestion of a controlled
- 193 substance prescribed by a physician assistant from certain charges;
- 194       ▶ amends the Utah Code of Criminal Procedure to include a physician assistant
- 195 among those who may draw blood;
- 196       ▶ amends the Juvenile Court Act to:
- 197           • permit a physician assistant to examine or treat a minor; and
- 198           • permit a second medical opinion by a physician assistant for a child custody
- 199 determination under certain circumstances;
- 200       ▶ amends the Judicial Code to include physician assistants in certain provisions
- 201 relating to other health care professionals; and
- 202       ▶ makes corresponding and other technical amendments.

203 **Money Appropriated in this Bill:**

204       None

205 **Other Special Clauses:**

206       None

207 **Utah Code Sections Affected:**

208 AMENDS:

209       **4-35-107**, as renumbered and amended by Laws of Utah 2017, Chapter 345

210       **13-53-107**, as enacted by Laws of Utah 2018, Chapter 252

211       **16-11-2**, as last amended by Laws of Utah 2011, Chapter 289

212       **20A-1-501**, as last amended by Laws of Utah 2016, Chapter 16

213       **23-19-36**, as last amended by Laws of Utah 2011, Chapter 366

- 214 [23-19-38](#), as last amended by Laws of Utah 2010, Chapter 288
- 215 [26-2-5](#), as last amended by Laws of Utah 2008, Chapter 3
- 216 [26-4-2](#), as last amended by Laws of Utah 2018, Chapters 326 and 414
- 217 [26-4-14](#), as last amended by Laws of Utah 1993, Chapter 38
- 218 [26-4-17](#), as last amended by Laws of Utah 2018, Chapter 414
- 219 [26-6-3](#), as last amended by Laws of Utah 2011, Chapter 297
- 220 [26-6-17](#), as enacted by Laws of Utah 1981, Chapter 126
- 221 [26-6-18](#), as last amended by Laws of Utah 2011, Chapter 297
- 222 [26-6-19](#), as enacted by Laws of Utah 1981, Chapter 126
- 223 [26-6-20](#), as last amended by Laws of Utah 2011, Chapter 297
- 224 [26-6b-5](#), as last amended by Laws of Utah 2008, Chapter 115
- 225 [26-8a-251](#), as enacted by Laws of Utah 2000, Chapter 305
- 226 [26-8a-601](#), as last amended by Laws of Utah 2017, Chapter 326
- 227 [26-8d-104](#), as enacted by Laws of Utah 2018, Chapter 104
- 228 [26-8d-105](#), as enacted by Laws of Utah 2018, Chapter 104
- 229 [26-10-11](#), as last amended by Laws of Utah 2018, Chapter 415
- 230 [26-18-107](#), as enacted by Laws of Utah 1992, Chapter 273
- 231 [26-21-2](#), as last amended by Laws of Utah 2011, Chapter 161
- 232 [26-21-7](#), as last amended by Laws of Utah 2011, Chapter 161
- 233 [26-21-29](#), as enacted by Laws of Utah 2016, Chapter 73
- 234 [26-28-114](#), as last amended by Laws of Utah 2011, Chapter 297
- 235 [26-33a-102](#), as last amended by Laws of Utah 2016, Chapter 74
- 236 [26-64-105](#), as enacted by Laws of Utah 2018, Chapter 295
- 237 [26-64-107](#), as enacted by Laws of Utah 2018, Chapter 295
- 238 [31A-22-624](#), as last amended by Laws of Utah 2002, Chapter 308
- 239 [31A-22-649](#), as enacted by Laws of Utah 2018, Chapter 119
- 240 [41-1a-420](#), as last amended by Laws of Utah 2017, Chapter 41
- 241 [41-6a-520](#), as last amended by Laws of Utah 2018, Chapter 35
- 242 [41-6a-523](#), as last amended by Laws of Utah 2017, Chapter 326
- 243 [41-6a-1804](#), as last amended by Laws of Utah 2018, Chapter 113
- 244 [48-1d-102](#), as enacted by Laws of Utah 2013, Chapter 412

245 [48-3a-1101](#), as enacted by Laws of Utah 2013, Chapter 412  
246 [49-12-601](#), as last amended by Laws of Utah 2011, Chapter 366  
247 [49-16-102](#), as last amended by Laws of Utah 2017, Chapter 93  
248 [49-16-602](#), as last amended by Laws of Utah 2011, Chapter 366  
249 [49-21-402](#), as last amended by Laws of Utah 2018, Chapter 185  
250 [49-21-406](#), as last amended by Laws of Utah 2015, Chapter 328  
251 [53-2a-302](#), as renumbered and amended by Laws of Utah 2013, Chapter 295  
252 [53-3-302](#), as enacted by Laws of Utah 1993, Chapter 234  
253 [53-10-405](#), as last amended by Laws of Utah 2017, Chapter 326  
254 [53G-6-204](#), as renumbered and amended by Laws of Utah 2018, Chapter 3  
255 [53G-9-203](#), as renumbered and amended by Laws of Utah 2018, Chapter 3  
256 [53G-9-208](#), as renumbered and amended by Laws of Utah 2018, Chapter 3  
257 [53G-9-504](#), as renumbered and amended by Laws of Utah 2018, Chapter 3  
258 [53G-9-505](#), as renumbered and amended by Laws of Utah 2018, Chapter 3  
259 [54-8b-10](#), as last amended by Laws of Utah 2017, Chapters 43 and 423  
260 [58-1-111](#), as enacted by Laws of Utah 2016, Chapter 407  
261 [58-1-307](#), as last amended by Laws of Utah 2017, Chapter 326  
262 [58-1-501.5](#), as last amended by Laws of Utah 2008, Chapter 250  
263 [58-37-6](#), as last amended by Laws of Utah 2018, Chapter 318  
264 [58-41-4](#), as last amended by Laws of Utah 2018, Chapter 415  
265 [58-46a-305](#), as last amended by Laws of Utah 2004, Chapter 90  
266 [58-46a-502](#), as last amended by Laws of Utah 2015, Chapter 252  
267 [58-47b-304](#), as last amended by Laws of Utah 2014, Chapters 330, 348 and last  
268 amended by Coordination Clause, Laws of Utah 2014, Chapter 330  
269 [58-60-102](#), as last amended by Laws of Utah 2013, Chapters 16 and 123  
270 [58-60-107](#), as last amended by Laws of Utah 2013, Chapter 16  
271 [58-61-102](#), as last amended by Laws of Utah 2013, Chapters 16 and 123  
272 [58-70a-101](#), as enacted by Laws of Utah 1997, Chapter 229  
273 [58-70a-201](#), as last amended by Laws of Utah 2010, Chapter 37  
274 [58-75-304](#), as enacted by Laws of Utah 2001, Chapter 100  
275 [62A-4a-406](#), as last amended by Laws of Utah 2008, Chapter 299

- 276 [62A-4a-407](#), as last amended by Laws of Utah 2006, Chapter 75
- 277 [62A-5-311](#), as last amended by Laws of Utah 2011, Chapter 366
- 278 [62A-5-312](#), as last amended by Laws of Utah 2011, Chapter 366
- 279 [62A-15-301](#), as renumbered and amended by Laws of Utah 2002, Fifth Special Session,
- 280 Chapter 8
- 281 [62A-15-602](#), as last amended by Laws of Utah 2018, Chapter 322
- 282 [62A-15-629](#), as last amended by Laws of Utah 2018, Chapter 322
- 283 [62A-15-631](#), as last amended by Laws of Utah 2018, Chapter 322
- 284 [62A-15-640](#), as renumbered and amended by Laws of Utah 2002, Fifth Special Session,
- 285 Chapter 8
- 286 [62A-15-703](#), as last amended by Laws of Utah 2018, Chapter 322
- 287 [62A-15-1001](#), as renumbered and amended by Laws of Utah 2002, Fifth Special
- 288 Session, Chapter 8
- 289 [62A-15-1002](#), as renumbered and amended by Laws of Utah 2002, Fifth Special
- 290 Session, Chapter 8
- 291 [62A-15-1003](#), as renumbered and amended by Laws of Utah 2002, Fifth Special
- 292 Session, Chapter 8
- 293 [62A-15-1004](#), as renumbered and amended by Laws of Utah 2002, Fifth Special
- 294 Session, Chapter 8
- 295 [62A-15-1207](#), as last amended by Laws of Utah 2018, Chapter 77
- 296 [62A-15-1207.5](#), as enacted by Laws of Utah 2018, Chapter 77
- 297 [63G-2-202](#), as last amended by Laws of Utah 2018, Chapter 270
- 298 [63N-10-102](#), as renumbered and amended by Laws of Utah 2015, Chapter 283
- 299 [63N-10-301](#), as renumbered and amended by Laws of Utah 2015, Chapter 283
- 300 [67-5b-105](#), as last amended by Laws of Utah 2016, Chapter 290
- 301 [67-5b-106](#), as last amended by Laws of Utah 2016, Chapter 290
- 302 [75-5-303](#), as last amended by Laws of Utah 2018, Chapter 455
- 303 [75-5-316](#), as last amended by Laws of Utah 2011, Chapter 366
- 304 [75-5-317](#), as enacted by Laws of Utah 2018, Chapter 294
- 305 [75-9-109](#), as enacted by Laws of Utah 2016, Chapter 256
- 306 [76-5-110](#), as last amended by Laws of Utah 2011, Chapter 366

- 307 **76-5-111**, as last amended by Laws of Utah 2011, Chapter 320
- 308 **76-5-406**, as last amended by Laws of Utah 2018, Chapter 176
- 309 **76-10-1506**, as last amended by Laws of Utah 2010, Chapter 276
- 310 **77-23-213**, as enacted by Laws of Utah 2018, Chapter 35
- 311 **78A-6-117**, as last amended by Laws of Utah 2018, Chapters 117 and 285
- 312 **78A-6-301.5**, as enacted by Laws of Utah 2015, Chapter 274
- 313 **78B-1-137**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 314 **78B-2-114**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 315 **78B-3-403**, as last amended by Laws of Utah 2013, Chapter 104

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317 *Be it enacted by the Legislature of the state of Utah:*

318 Section 1. Section **4-35-107** is amended to read:

319 **4-35-107. Notice to owner or occupant -- Corrective action required -- Directive**  
 320 **issued by department -- Costs -- Owner or occupant may prohibit treatment.**

321 (1) The department or an authorized agent of the department shall notify the owner or  
 322 occupant of the problem and the available alternatives to remedy the problem. The owner or  
 323 occupant shall take corrective action within 30 days.

324 (2) (a) If the owner or occupant fails to take corrective action under Subsection (1), the  
 325 department may issue a directive for corrective action which shall be taken within 15 days.

326 (b) If the owner or occupant fails to act within the required time, the department shall  
 327 take the necessary action.

328 (c) The department may recover costs incurred for controlling an insect infestation  
 329 emergency from the owner or occupant of the property on whose property corrective action was  
 330 taken.

331 (3) (a) Owners or occupants of property may prohibit treatment by presenting an  
 332 affidavit from the owner's or occupant's attending physician or physician assistant to the  
 333 department which states that the treatment as planned is a danger to the owner's or occupant's  
 334 health.

335 (b) The department shall provide the owner or occupant with alternatives to treatment  
 336 which will abate the infestation.

337 Section 2. Section **13-53-107** is amended to read:

338 **13-53-107. Participant screening.**

339 (1) A residential, vocational and life skills program shall interview and screen all  
340 prospective participants for medical prescriptions, physical and mental health history, and  
341 recent alcohol or drug use.

342 (2) Unless an individual obtains a medical clearance from a physician or physician  
343 assistant, a residential, vocational and life skills program may not have as a participant an  
344 individual who:

345 (a) has a recent diagnosis of a mental, social, psychiatric, or psychological illness; or

346 (b) has an active prescription for medication for a mental, social, psychiatric, or  
347 psychological illness.

348 (3) A residential, vocational and life skills program may not admit a minor.

349 Section 3. Section **16-11-2** is amended to read:

350 **16-11-2. Definitions.**

351 As used in this chapter:

352 (1) "Filed" means the division has received and approved, as to form, a document  
353 submitted under this chapter, and has marked on the face of the document a stamp or seal  
354 indicating the time of day and date of approval, the name of the division, the division director's  
355 signature and division seal, or facsimiles of the signature or seal.

356 (2) "Professional corporation" means a corporation organized under this chapter.

357 (3) "Professional service" means the personal service rendered by:

358 (a) a physician, surgeon, or doctor of medicine holding a license under Title 58,  
359 Chapter 67, Utah Medical Practice Act, and any subsequent laws regulating the practice of  
360 medicine;

361 (b) a doctor of dentistry holding a license under Title 58, Chapter 69, Dentist and  
362 Dental Hygienist Practice Act, and any subsequent laws regulating the practice of dentistry;

363 (c) an osteopathic physician or surgeon holding a license under Title 58, Chapter 68,  
364 Utah Osteopathic Medical Practice Act, and any subsequent laws regulating the practice of  
365 osteopathy;

366 (d) a physician assistant holding a license under Title 58, Chapter 70a, Utah Physician  
367 Assistant Act, and any subsequent laws regulating the practice as a physician assistant;

368 [~~(e)~~] (e) a chiropractor holding a license under Title 58, Chapter 73, Chiropractic

369 Physician Practice Act, and any subsequent laws regulating the practice of chiropractics;  
370       ~~[(e)]~~ (f) a podiatric physician holding a license under Title 58, Chapter 5a, Podiatric  
371 Physician Licensing Act, and any subsequent laws regulating the practice of podiatry;  
372       ~~[(f)]~~ (g) an optometrist holding a license under Title 58, Chapter 16a, Utah Optometry  
373 Practice Act, and any subsequent laws regulating the practice of optometry;  
374       ~~[(g)]~~ (h) a veterinarian holding a license under Title 58, Chapter 28, Veterinary Practice  
375 Act, and any subsequent laws regulating the practice of veterinary medicine;  
376       ~~[(h)]~~ (i) an architect holding a license under Title 58, Chapter 3a, Architects Licensing  
377 Act, and any subsequent laws regulating the practice of architecture;  
378       ~~[(i)]~~ (j) a public accountant holding a license under Title 58, Chapter 26a, Certified  
379 Public Accountant Licensing Act, and any subsequent laws regulating the practice of public  
380 accounting;  
381       ~~[(j)]~~ (k) a naturopath holding a license under Title 58, Chapter 71, Naturopathic  
382 Physician Practice Act, and any subsequent laws regulating the practice of naturopathy;  
383       ~~[(k)]~~ (l) a pharmacist holding a license under Title 58, Chapter 17b, Pharmacy Practice  
384 Act, and any subsequent laws regulating the practice of pharmacy;  
385       ~~[(l)]~~ (m) an attorney granted the authority to practice law by:  
386       (i) the Utah Supreme Court; or  
387       (ii) the Supreme Court, other court, agency, instrumentality, or regulating board that  
388 licenses or regulates the authority to practice law in any state or territory of the United States  
389 other than Utah;  
390       ~~[(m)]~~ (n) a professional engineer registered under Title 58, Chapter 22, Professional  
391 Engineers and Professional Land Surveyors Licensing Act;  
392       ~~[(n)]~~ (o) a principal broker, associate broker, or sales agent holding a license under  
393 Title 61, Chapter 2f, Real Estate Licensing and Practices Act, and any subsequent laws  
394 regulating the selling, exchanging, purchasing, renting, or leasing of real estate;  
395       ~~[(o)]~~ (p) a psychologist holding a license under Title 58, Chapter 61, Psychologist  
396 Licensing Act, and any subsequent laws regulating the practice of psychology;  
397       ~~[(p)]~~ (q) a clinical or certified social worker holding a license under Title 58, Chapter  
398 60, Part 2, Social Worker Licensing Act, and any subsequent laws regulating the practice of  
399 social work;

400           ~~[(q)]~~ (r) a physical therapist holding a license under Title 58, Chapter 24b, Physical  
401 Therapy Practice Act, and any subsequent laws regulating the practice of physical therapy;

402           ~~[(r)]~~ (s) a nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, or Title 58,  
403 Chapter 44a, Nurse Midwife Practice Act;

404           ~~[(s)]~~ (t) a landscape architect licensed under Title 58, Chapter 53, Landscape Architects  
405 Licensing Act, and any subsequent laws regulating landscape architects; or

406           ~~[(t)]~~ (u) an individual licensed, certified, or registered under Title 61, Chapter 2g, Real  
407 Estate Appraiser Licensing and Certification Act, and any subsequent laws regulating the  
408 practice of appraising real estate.

409           (4) "Regulating board" means the board that is charged with the licensing and  
410 regulation of the practice of the profession which the professional corporation is organized to  
411 render. The definitions of Title 16, Chapter 10a, Utah Revised Business Corporation Act,  
412 apply to this chapter unless the context clearly indicates that a different meaning is intended.

413           Section 4. Section **20A-1-501** is amended to read:

414           **20A-1-501. Candidate vacancies -- Procedure for filling.**

415           (1) The state central committee of a political party, for candidates for United States  
416 senator, United States representative, governor, lieutenant governor, attorney general, state  
417 treasurer, and state auditor, and for legislative candidates whose legislative districts encompass  
418 more than one county, and the county central committee of a political party, for all other party  
419 candidates seeking an office elected at a regular general election, may certify the name of  
420 another candidate to the appropriate election officer if:

421           (a) for a registered political party that will have a candidate on a ballot in a primary  
422 election, after the close of the period for filing a declaration of candidacy and continuing  
423 through the day before the day on which the lieutenant governor provides the list described in  
424 Subsection [20A-9-403\(4\)\(a\)](#):

425           (i) only one or two candidates from that party have filed a declaration of candidacy for  
426 that office; and

427           (ii) one or both:

428           (A) dies;

429           (B) resigns because of acquiring a physical or mental disability, certified by a physician  
430 or physician assistant, that prevents the candidate from continuing the candidacy; or

431 (C) is disqualified by an election officer for improper filing or nominating procedures;  
432 (b) for a registered political party that does not have a candidate on the ballot in a  
433 primary, but that will have a candidate on the ballot for a general election, after the close of the  
434 period for filing a declaration of candidacy and continuing through the day before the day on  
435 which the lieutenant governor makes the certification described in Section 20A-5-409, the  
436 party's candidate:

437 (i) dies;

438 (ii) resigns because of acquiring a physical or mental disability as certified by a  
439 physician or physician assistant;

440 (iii) is disqualified by an election officer for improper filing or nominating procedures;

441 or

442 (iv) resigns to become a candidate for president or vice president of the United States;

443 or

444 (c) for a registered political party with a candidate certified as winning a primary  
445 election, after the deadline described in Subsection (1)(a) and continuing through the day  
446 before that day on which the lieutenant governor makes the certification described in Section  
447 20A-5-409, the party's candidate:

448 (i) dies;

449 (ii) resigns because of acquiring a physical or mental disability as certified by a  
450 physician or physician assistant;

451 (iii) is disqualified by an election officer for improper filing or nominating procedures;

452 or

453 (iv) resigns to become a candidate for president or vice president of the United States.

454 (2) If no more than two candidates from a political party have filed a declaration of  
455 candidacy for an office elected at a regular general election and one resigns to become the party  
456 candidate for another position, the state central committee of that political party, for candidates  
457 for governor, lieutenant governor, attorney general, state treasurer, and state auditor, and for  
458 legislative candidates whose legislative districts encompass more than one county, and the  
459 county central committee of that political party, for all other party candidates, may certify the  
460 name of another candidate to the appropriate election officer.

461 (3) Each replacement candidate shall file a declaration of candidacy as required by

462 Title 20A, Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy.

463 (4) (a) The name of a candidate who is certified under Subsection (1)(a) after the  
464 deadline described in Subsection (1)(a) may not appear on the primary election ballot.

465 (b) The name of a candidate who is certified under Subsection (1)(b) after the deadline  
466 described in Subsection (1)(b) may not appear on the general election ballot.

467 (c) The name of a candidate who is certified under Subsection (1)(c) after the deadline  
468 described in Subsection (1)(c) may not appear on the general election ballot.

469 (5) A political party may not replace a candidate who is disqualified for failure to  
470 timely file a campaign disclosure financial report under Title 20A, Chapter 11, Campaign and  
471 Financial Reporting Requirements, or Section 17-16-6.5.

472 Section 5. Section 23-19-36 is amended to read:

473 **23-19-36. Persons with a physical or intellectual disability, terminally ill persons,  
474 and children in the custody of the state -- License to fish for free.**

475 (1) A resident who is blind, has paraplegia, or has another permanent disability so as to  
476 be permanently confined to a wheelchair or the use of crutches, or who has lost either or both  
477 lower extremities, may receive a free license to fish upon furnishing satisfactory proof of this  
478 fact to the Division of Wildlife Resources.

479 (2) A resident who has an intellectual disability and is not eligible under Section  
480 23-19-14 to fish without a license may receive a free license to fish upon furnishing  
481 verification from a physician or physician assistant that the person has an intellectual disability.

482 (3) A resident who is terminally ill, and has less than five years to live, may receive a  
483 free license to fish:

484 (a) upon furnishing verification from a physician or physician assistant; and

485 (b) if the resident qualifies for assistance under any low income public assistance  
486 program administered by a state agency.

487 (4) A child placed in the custody of the state by a court order may receive a free fishing  
488 license upon furnishing verification of custody to the Division of Wildlife Resources.

489 Section 6. Section 23-19-38 is amended to read:

490 **23-19-38. Sales of licenses, certificates, or permits final -- Exceptions --  
491 Reallocation of surrendered permits.**

492 (1) Sales of all licenses, certificates, or permits are final, and no refunds may be made

493 by the division except as provided in Subsections (2) and (3).

494 (2) The division may refund the amount of the license, certificate, or permit if:

495 (a) the division or the Wildlife Board discontinues the activity for which the license,  
496 certificate, or permit was obtained;

497 (b) the division determines that it has erroneously collected a fee;

498 (c) (i) the person to whom the license, certificate, or permit is issued becomes ill or  
499 suffers an injury that precludes the person from using the license, certificate, or permit;

500 (ii) the person furnishes verification of illness or injury from a physician or physician  
501 assistant;

502 (iii) the person does not actually use the license, certificate, or permit; and

503 (iv) the license, certificate, or permit is surrendered before the end of the season for  
504 which the permit was issued; or

505 (d) the person to whom the license, certificate, or permit is issued dies prior to the  
506 person being able to use the license, certificate, or permit.

507 (3) The Wildlife Board may establish additional exceptions in rule to the refund  
508 prohibitions in Subsection (1).

509 (4) The division director may reallocate surrendered permits in accordance with rules  
510 adopted by the Wildlife Board.

511 Section 7. Section **26-2-5** is amended to read:

512 **26-2-5. Birth certificates -- Execution and registration requirements.**

513 (1) As used in this section, "birthing facility" means a general acute hospital or birthing  
514 center as defined in Section [26-21-2](#).

515 (2) For each live birth occurring in the state, a certificate shall be filed with the local  
516 registrar for the district in which the birth occurred within 10 days following the birth. The  
517 certificate shall be registered if it is completed and filed in accordance with this chapter.

518 (3) (a) For each live birth that occurs in a birthing facility, the administrator of the  
519 birthing facility, or his designee, shall obtain and enter the information required under this  
520 chapter on the certificate, securing the required signatures, and filing the certificate.

521 (b) (i) The date, time, place of birth, and required medical information shall be certified  
522 by the birthing facility administrator or his designee.

523 (ii) The attending physician or nurse midwife may sign the certificate, but if the

524 attending physician or nurse midwife has not signed the certificate within seven days of the  
525 date of birth, the birthing facility administrator or his designee shall enter the attending  
526 physician's or nurse midwife's name and transmit the certificate to the local registrar.

527 (iii) The information on the certificate about the parents shall be provided and certified  
528 by the mother or father or, in their incapacity or absence, by a person with knowledge of the  
529 facts.

530 (4) (a) For live births that occur outside a birthing facility, the birth certificate shall be  
531 completed and filed by the physician, physician assistant, nurse, midwife, or other person  
532 primarily responsible for providing assistance to the mother at the birth. If there is no such  
533 person, either the presumed or declarant father shall complete and file the certificate. In his  
534 absence, the mother shall complete and file the certificate, and in the event of her death or  
535 disability, the owner or operator of the premises where the birth occurred shall do so.

536 (b) The certificate shall be completed as fully as possible and shall include the date,  
537 time, and place of birth, the mother's name, and the signature of the person completing the  
538 certificate.

539 (5) (a) For each live birth to an unmarried mother that occurs in a birthing facility, the  
540 administrator or director of that facility, or his designee, shall:

541 (i) provide the birth mother and declarant father, if present, with:

542 (A) a voluntary declaration of paternity form published by the state registrar;

543 (B) oral and written notice to the birth mother and declarant father of the alternatives  
544 to, the legal consequences of, and the rights and responsibilities that arise from signing the  
545 declaration; and

546 (C) the opportunity to sign the declaration;

547 (ii) witness the signature of a birth mother or declarant father in accordance with  
548 Section [78B-15-302](#) if the signature occurs at the facility;

549 (iii) enter the declarant father's information on the original birth certificate, but only if  
550 the mother and declarant father have signed a voluntary declaration of paternity or a court or  
551 administrative agency has issued an adjudication of paternity; and

552 (iv) file the completed declaration with the original birth certificate.

553 (b) If there is a presumed father, the voluntary declaration will only be valid if the  
554 presumed father also signs the voluntary declaration.

555 (c) The state registrar shall file the information provided on the voluntary declaration  
556 of paternity form with the original birth certificate and may provide certified copies of the  
557 declaration of paternity as otherwise provided under Title 78B, Chapter 15, Utah Uniform  
558 Parentage Act.

559 (6) (a) The state registrar shall publish a form for the voluntary declaration of paternity,  
560 a description of the process for filing a voluntary declaration of paternity, and of the rights and  
561 responsibilities established or effected by that filing, in accordance with Title 78B, Chapter 15,  
562 Utah Uniform Parentage Act.

563 (b) Information regarding the form and services related to voluntary paternity  
564 establishment shall be made available to birthing facilities and to any other entity or individual  
565 upon request.

566 (7) The name of a declarant father may only be included on the birth certificate of a  
567 child of unmarried parents if:

568 (a) the mother and declarant father have signed a voluntary declaration of paternity; or

569 (b) a court or administrative agency has issued an adjudication of paternity.

570 (8) Voluntary declarations of paternity, adjudications of paternity by judicial or  
571 administrative agencies, and voluntary rescissions of paternity shall be filed with and  
572 maintained by the state registrar for the purpose of comparing information with the state case  
573 registry maintained by the Office of Recovery Services pursuant to Section [62A-11-104](#).

574 Section 8. Section **26-4-2** is amended to read:

575 **26-4-2. Definitions.**

576 As used in this chapter:

577 (1) "Dead body" is as defined in Section [26-2-2](#).

578 (2) "Death by violence" means death that resulted by the decedent's exposure to  
579 physical, mechanical, or chemical forces, and includes death which appears to have been due to  
580 homicide, death which occurred during or in an attempt to commit rape, mayhem, kidnapping,  
581 robbery, burglary, housebreaking, extortion, or blackmail accompanied by threats of violence,  
582 assault with a dangerous weapon, assault with intent to commit any offense punishable by  
583 imprisonment for more than one year, arson punishable by imprisonment for more than one  
584 year, or any attempt to commit any of the foregoing offenses.

585 (3) "Immediate relative" means an individual's spouse, child, parent, sibling,

586 grandparent, or grandchild.

587 (4) "Medical examiner" means the state medical examiner appointed pursuant to  
588 Section 26-4-4 or a deputy appointed by the medical examiner.

589 (5) "Medical examiner record" means:

590 (a) all information that the medical examiner obtains regarding a decedent; and

591 (b) reports that the medical examiner makes regarding a decedent.

592 (6) "Regional pathologist" means a trained pathologist licensed to practice medicine  
593 and surgery in the state, appointed by the medical examiner pursuant to Subsection 26-4-4(3).

594 (7) "Sudden death while in apparent good health" means apparently instantaneous  
595 death without obvious natural cause, death during or following an unexplained syncope or  
596 coma, or death during an acute or unexplained rapidly fatal illness.

597 (8) "Sudden infant death syndrome" means the death of a child who was thought to be  
598 in good health or whose terminal illness appeared to be so mild that the possibility of a fatal  
599 outcome was not anticipated.

600 (9) "Suicide" means death caused by an intentional and voluntary act of a person who  
601 understands the physical nature of the act and intends by such act to accomplish  
602 self-destruction.

603 (10) "Unattended death" means the death of a person who has not been seen by a  
604 physician or physician assistant within the scope of the physician's or physician assistant's  
605 professional capacity within 30 days immediately prior to the date of death. This definition  
606 does not require an investigation, autopsy, or inquest in any case where death occurred without  
607 medical attendance solely because the deceased was under treatment by prayer or spiritual  
608 means alone in accordance with the tenets and practices of a well-recognized church or  
609 religious denomination.

610 (11) (a) "Unavailable for postmortem investigation" means that a dead body is:

611 (i) transported out of state;

612 (ii) buried at sea;

613 (iii) cremated;

614 (iv) processed by alkaline hydrolysis; or

615 (v) otherwise made unavailable to the medical examiner for postmortem investigation  
616 or autopsy.

617 (b) "Unavailable for postmortem investigation" does not include embalming or burial  
618 of a dead body pursuant to the requirements of law.

619 (12) "Within the scope of the decedent's employment" means all acts reasonably  
620 necessary or incident to the performance of work, including matters of personal convenience  
621 and comfort not in conflict with specific instructions.

622 Section 9. Section **26-4-14** is amended to read:

623 **26-4-14. Certification of death by attending physician or physician assistant --**  
624 **Deaths without medical attendance -- Cause of death uncertain -- Notice requirements.**

625 The physician or physician assistant in attendance at the last illness of a deceased  
626 person who, in the judgment of the physician or physician assistant, does not appear to have  
627 died in a manner described in Section **26-4-7**, shall certify the cause of death to his best  
628 knowledge and belief. When there is no physician or physician assistant in attendance during  
629 the last illness or when an attending physician or physician assistant is unable to determine  
630 with reasonable certainty the cause of death, the physician, physician assistant, or person with  
631 custody of the body shall so notify the medical examiner. If the medical examiner has reason to  
632 believe there may be criminal responsibility for the death, he shall notify the district attorney or  
633 county attorney having criminal jurisdiction or the head of the law enforcement agency having  
634 jurisdiction to make further investigation of the death.

635 Section 10. Section **26-4-17** is amended to read:

636 **26-4-17. Records of medical examiner -- Confidentiality.**

637 (1) The medical examiner shall maintain complete, original records for the medical  
638 examiner record, which shall:

639 (a) be properly indexed, giving the name, if known, or otherwise identifying every  
640 individual whose death is investigated;

641 (b) indicate the place where the body was found;

642 (c) indicate the date of death;

643 (d) indicate the cause and manner of death;

644 (e) indicate the occupation of the decedent, if available;

645 (f) include all other relevant information concerning the death; and

646 (g) include a full report and detailed findings of the autopsy or report of the  
647 investigation.

648 (2) Upon written request from an individual described in Subsections (2)(a) through  
649 (d), the medical examiner shall provide a copy of the medical examiner's final report of  
650 examination for the decedent, including the autopsy report, toxicology report, lab reports, and  
651 investigative reports to:

652 (a) a decedent's immediate relative;

653 (b) a decedent's legal representative;

654 (c) a physician or physician assistant who attended the decedent during the year before  
655 the decedent's death; or

656 (d) as necessary for the performance of the individual's professional duties, a county  
657 attorney, a district attorney, a criminal defense attorney, or other law enforcement official with  
658 jurisdiction.

659 (3) Reports provided under Subsection (2) may not include records that the medical  
660 examiner obtains from a third party in the course of investigating the decedent's death.

661 (4) The medical examiner may provide a medical examiner record to a researcher who:

662 (a) has an advanced degree;

663 (b) (i) is affiliated with an accredited college or university, a hospital, or another  
664 system of care, including an emergency medical response or a local health agency; or

665 (ii) is part of a research firm contracted with an accredited college or university, a  
666 hospital, or another system of care;

667 (c) requests a medical examiner record for a research project or a quality improvement  
668 initiative that will have a public health benefit, as determined by the Department of Health; and

669 (d) provides to the medical examiner an approval from:

670 (i) the researcher's sponsoring organization; and

671 (ii) the Utah Department of Health Institutional Review Board.

672 (5) Records provided under Subsection (4) may not include a third party record, unless:

673 (a) a court has ordered disclosure of the third party record; and

674 (b) disclosure is conducted in compliance with state and federal law.

675 (6) A person who obtains a medical examiner record under Subsection (4) shall:

676 (a) maintain the confidentiality of the medical examiner record by removing personally  
677 identifying information about a decedent or the decedent's family and any other information  
678 that may be used to identify a decedent before using the medical examiner record in research;

679 (b) conduct any research within and under the supervision of the Office of the Medical  
680 Examiner, if the medical examiner record contains a third party record with personally  
681 identifiable information;

682 (c) limit the use of a medical examiner record to the purpose for which the person  
683 requested the medical examiner record;

684 (d) destroy a medical examiner record and the data abstracted from the medical  
685 examiner record at the conclusion of the research for which the person requested the medical  
686 examiner record;

687 (e) reimburse the medical examiner, as provided in Section 26-1-6, for any costs  
688 incurred by the medical examiner in providing a medical examiner record;

689 (f) allow the medical examiner to review, before public release, a publication in which  
690 data from a medical examiner record is referenced or analyzed; and

691 (g) provide the medical examiner access to the researcher's database containing data  
692 from a medical examiner record, until the day on which the researcher permanently destroys  
693 the medical examiner record and all data obtained from the medical examiner record.

694 (7) Except as provided in this chapter or ordered by a court, the medical examiner may  
695 not disclose any part of a medical examiner record.

696 (8) A person who obtains a medical examiner record under Subsection (4) is guilty of a  
697 class B misdemeanor, if the person fails to comply with the requirements of Subsections (6)(a)  
698 through (d).

699 Section 11. Section 26-6-3 is amended to read:

700 **26-6-3. Authority to investigate and control epidemic infections and**  
701 **communicable disease.**

702 (1) The department has authority to investigate and control the causes of epidemic  
703 infections and communicable disease, and shall provide for the detection, reporting,  
704 prevention, and control of communicable diseases and epidemic infections or any other health  
705 hazard which may affect the public health.

706 (2) (a) As part of the requirements of Subsection (1), the department shall distribute to  
707 the public and to health care professionals:

708 (i) medically accurate information about sexually transmitted diseases that may cause  
709 infertility and sterility if left untreated, including descriptions of:

710 (A) the probable side effects resulting from an untreated sexually transmitted disease,  
711 including infertility and sterility;

712 (B) medically accepted treatment for sexually transmitted diseases;

713 (C) the medical risks commonly associated with the medical treatment of sexually  
714 transmitted diseases; and

715 (D) [~~suggest~~] suggested screening by a private physician or physician assistant; and

716 (ii) information about:

717 (A) public services and agencies available to assist individuals with obtaining  
718 treatment for the sexually transmitted disease;

719 (B) medical assistance benefits that may be available to the individual with the  
720 sexually transmitted disease; and

721 (C) abstinence before marriage and fidelity after marriage being the surest prevention  
722 of sexually transmitted disease.

723 (b) The information required by Subsection (2)(a):

724 (i) shall be distributed by the department and by local health departments free of  
725 charge;

726 (ii) shall be relevant to the geographic location in which the information is distributed  
727 by:

728 (A) listing addresses and telephone numbers for public clinics and agencies providing  
729 services in the geographic area in which the information is distributed; and

730 (B) providing the information in English as well as other languages that may be  
731 appropriate for the geographic area.

732 (c) (i) Except as provided in Subsection (2)(c)(ii), the department shall develop written  
733 material that includes the information required by this Subsection (2).

734 (ii) In addition to the written materials required by Subsection (2)(c)(i), the department  
735 may distribute the information required by this Subsection (2) by any other methods the  
736 department determines is appropriate to educate the public, excluding public schools, including  
737 websites, toll free telephone numbers, and the media.

738 (iii) If the information required by Subsection (2)(b)(ii)(A) is not included in the  
739 written pamphlet developed by the department, the written material shall include either a  
740 website, or a 24-hour toll free telephone number that the public may use to obtain that

741 information.

742 Section 12. Section **26-6-17** is amended to read:

743 **26-6-17. Venereal disease -- Examinations by authorities -- Treatment of infected**  
744 **persons.**

745 State, county, and municipal health officers within their respective jurisdictions may  
746 make examinations of persons reasonably suspected of being infected with venereal disease.  
747 Persons infected with venereal disease shall be required to report for treatment to either a  
748 reputable physician or physician assistant and continue treatment until cured or to submit to  
749 treatment provided at public expense until cured.

750 Section 13. Section **26-6-18** is amended to read:

751 **26-6-18. Venereal disease -- Consent of minor to treatment.**

752 (1) A consent to medical care or services by a hospital or public clinic or the  
753 performance of medical care or services by a licensed physician or physician assistant executed  
754 by a minor who is or professes to be afflicted with a sexually transmitted disease, shall have the  
755 same legal effect upon the minor and the same legal obligations with regard to the giving of  
756 consent as a consent given by a person of full legal age and capacity, the infancy of the minor  
757 and any contrary provision of law notwithstanding.

758 (2) The consent of the minor is not subject to later disaffirmance by reason of minority  
759 at the time it was given and the consent of no other person or persons shall be necessary to  
760 authorize hospital or clinical care or services to be provided to the minor by a licensed  
761 physician or physician assistant.

762 (3) The provisions of this section shall apply also to minors who profess to be in need  
763 of hospital or clinical care and services or medical care or services provided by a physician or  
764 physician assistant for suspected sexually transmitted disease, regardless of whether such  
765 professed suspicions are subsequently substantiated on a medical basis.

766 Section 14. Section **26-6-19** is amended to read:

767 **26-6-19. Venereal disease -- Examination and treatment of persons in prison or**  
768 **jail.**

769 (1) All persons confined in any state, county, or city prison or jail shall be examined,  
770 and if infected, treated for venereal diseases by the health authorities. The prison authorities of  
771 every state, county, or city prison or jail shall make available to the health authorities such

772 portion of the prison or jail as may be necessary for a clinic or hospital wherein all persons  
773 suffering with venereal disease at the time of the expiration of their terms of imprisonment,  
774 shall be isolated and treated at public expense until cured.

775 (2) The department may require persons suffering with venereal disease at the time of  
776 the expiration of their terms of imprisonment to report for treatment to a licensed physician or  
777 physician assistant or submit to treatment provided at public expense in lieu of isolation.  
778 Nothing in this section shall interfere with the service of any sentence imposed by a court as a  
779 punishment for the commission of crime.

780 Section 15. Section **26-6-20** is amended to read:

781 **26-6-20. Serological testing of pregnant or recently delivered women.**

782 (1) Every licensed physician and surgeon attending a pregnant or recently delivered  
783 woman for conditions relating to her pregnancy shall take or cause to be taken a sample of  
784 blood of the woman at the time of first examination or within 10 days thereafter. The blood  
785 sample shall be submitted to an approved laboratory for a standard serological test for syphilis.  
786 The provisions of this section do not apply to any female who objects thereto on the grounds  
787 that she is a bona fide member of a specified, well recognized religious organization whose  
788 teachings are contrary to the tests.

789 (2) Every other person attending a pregnant or recently delivered woman, who is not  
790 permitted by law to take blood samples, shall within 10 days from the time of first attendance  
791 cause a sample of blood to be taken by a licensed physician or physician assistant. The blood  
792 sample shall be submitted to an approved laboratory for a standard serological test for syphilis.

793 (3) An approved laboratory is a laboratory approved by the department according to its  
794 rules governing the approval of laboratories for the purpose of this title. In submitting the  
795 sample to the laboratory the physician or physician assistant shall designate whether it is a  
796 prenatal test or a test following recent delivery.

797 (4) For the purpose of this chapter, a "standard serological test" means a test for  
798 syphilis approved by the department and made at an approved laboratory.

799 (5) The laboratory shall transmit a detailed report of the standard serological test,  
800 showing the result thereof to the physician or physician assistant.

801 Section 16. Section **26-6b-5** is amended to read:

802 **26-6b-5. Petition for judicial review of order of restriction -- Court-ordered**

803 **examination period.**

804 (1) (a) A department may petition for a judicial review of the department's order of  
805 restriction for an individual or group of individuals who are subject to restriction by filing a  
806 written petition with the district court of the county in which the individual or group of  
807 individuals reside or are located.

808 (b) (i) The county attorney for the county where the individual or group of individuals  
809 reside or are located shall represent the local health department in any proceedings under this  
810 chapter.

811 (ii) The Office of the Attorney General shall represent the department when the  
812 petitioner is the Department of Health in any proceedings under this chapter.

813 (2) The petition under Subsection (1) shall be accompanied by:

814 (a) written affidavit of the department stating:

815 (i) a belief the individual or group of individuals are subject to restriction;

816 (ii) a belief that the individual or group of individuals who are subject to restriction are  
817 likely to fail to submit to examination, treatment, quarantine, or isolation if not immediately  
818 restrained;

819 (iii) this failure would pose a threat to the public health; and

820 (iv) the personal knowledge of the individual's or group of individuals' condition or the  
821 circumstances that lead to that belief; and

822 (b) a written statement by a licensed physician or physician assistant indicating the  
823 physician or physician assistant finds the individual or group of individuals are subject to  
824 restriction.

825 (3) The court shall issue an order of restriction requiring the individual or group of  
826 individuals to submit to involuntary restriction to protect the public health if the district court  
827 finds:

828 (a) there is a reasonable basis to believe that the individual's or group of individuals'  
829 condition requires involuntary examination, quarantine, treatment, or isolation pending  
830 examination and hearing; or

831 (b) the individual or group of individuals have refused to submit to examination by a  
832 health professional as directed by the department or to voluntarily submit to examination,  
833 treatment, quarantine, or isolation.

834 (4) If the individual or group of individuals who are subject to restriction are not in  
835 custody, the court may make its determination and issue its order of restriction in an ex parte  
836 hearing.

837 (5) At least 24 hours prior to the hearing required by Section 26-6b-6, the department  
838 which is the petitioner, shall report to the court, in writing, the opinion of qualified health care  
839 providers:

840 (a) regarding whether the individual or group of individuals are infected by or  
841 contaminated with:

842 (i) a communicable or possible communicable disease that poses a threat to public  
843 health;

844 (ii) an infectious agent or possibly infectious agent that poses a threat to public health;

845 (iii) a chemical or biological agent that poses a threat to public health; or

846 (iv) a condition that poses a threat to public health;

847 (b) that despite the exercise of reasonable diligence, the diagnostic studies have not  
848 been completed;

849 (c) whether the individual or group of individuals have agreed to voluntarily comply  
850 with necessary examination, treatment, quarantine, or isolation; and

851 (d) whether the petitioner believes the individual or group of individuals will comply  
852 without court proceedings.

853 Section 17. Section 26-8a-251 is amended to read:

854 **26-8a-251. Trauma system advisory committee.**

855 (1) There is created within the department the trauma system advisory committee.

856 (2) (a) The committee shall be comprised of individuals knowledgeable in adult or  
857 pediatric trauma care, including physicians, physician assistants, nurses, hospital  
858 administrators, emergency medical services personnel, government officials, consumers, and  
859 persons affiliated with professional health care associations.

860 (b) Representation on the committee shall be broad and balanced among the health care  
861 delivery systems in the state with no more than three representatives coming from any single  
862 delivery system.

863 (3) The committee shall:

864 (a) advise the department regarding trauma system needs throughout the state;

865 (b) assist the department in evaluating the quality and outcomes of the overall trauma  
866 system;

867 (c) review and comment on proposals and rules governing the statewide trauma  
868 system; and

869 (d) make recommendations for the development of statewide triage, treatment,  
870 transportation, and transfer guidelines.

871 (4) The department shall:

872 (a) determine, by rule, the term and causes for removal of committee members;

873 (b) establish committee procedures and administration policies consistent with this  
874 chapter and department rule; and

875 (c) provide administrative support to the committee.

876 Section 18. Section **26-8a-601** is amended to read:

877 **26-8a-601. Persons and activities exempt from civil liability.**

878 (1) (a) Except as provided in Subsection (1)(b), a licensed physician, physician's  
879 assistant, or licensed registered nurse who, gratuitously and in good faith, gives oral or written  
880 instructions to any of the following is not liable for any civil damages as a result of issuing the  
881 instructions:

882 (i) an individual licensed under Section [26-8a-302](#);

883 (ii) a person who uses a fully automated external defibrillator, as defined in Section  
884 [26-8b-102](#); or

885 (iii) a person who administers CPR, as defined in Section [26-8b-102](#).

886 (b) The liability protection described in Subsection (1)(a) does not apply if the  
887 instructions given were the result of gross negligence or willful misconduct.

888 (2) An individual licensed under Section [26-8a-302](#), during either training or after  
889 licensure, a licensed physician, a physician's assistant, or a registered nurse who, gratuitously  
890 and in good faith, provides emergency medical instructions or renders emergency medical care  
891 authorized by this chapter is not liable for any civil damages as a result of any act or omission  
892 in providing the emergency medical instructions or medical care, unless the act or omission is  
893 the result of gross negligence or willful misconduct.

894 (3) An individual licensed under Section [26-8a-302](#) is not subject to civil liability for  
895 failure to obtain consent in rendering emergency medical services authorized by this chapter to

896 any individual who is unable to give his consent, regardless of the individual's age, where there  
897 is no other person present legally authorized to consent to emergency medical care, provided  
898 that the licensed individual acted in good faith.

899 (4) A principal, agent, contractor, employee, or representative of an agency,  
900 organization, institution, corporation, or entity of state or local government that sponsors,  
901 authorizes, supports, finances, or supervises any functions of an individual licensed under  
902 Section [26-8a-302](#) is not liable for any civil damages for any act or omission in connection with  
903 such sponsorship, authorization, support, finance, or supervision of the licensed individual  
904 where the act or omission occurs in connection with the licensed individual's training or occurs  
905 outside a hospital where the life of a patient is in immediate danger, unless the act or omission  
906 is inconsistent with the training of the licensed individual, and unless the act or omission is the  
907 result of gross negligence or willful misconduct.

908 (5) A physician or physician assistant who gratuitously and in good faith arranges for,  
909 requests, recommends, or initiates the transfer of a patient from a hospital to a critical care unit  
910 in another hospital is not liable for any civil damages as a result of such transfer where:

911 (a) sound medical judgment indicates that the patient's medical condition is beyond the  
912 care capability of the transferring hospital or the medical community in which that hospital is  
913 located; and

914 (b) the physician or physician assistant has secured an agreement from the receiving  
915 facility to accept and render necessary treatment to the patient.

916 (6) A person who is a registered member of the National Ski Patrol System (NSPS) or  
917 a member of a ski patrol who has completed a course in winter emergency care offered by the  
918 NSPS combined with CPR for medical technicians offered by the American Red Cross or  
919 American Heart Association, or an equivalent course of instruction, and who in good faith  
920 renders emergency care in the course of ski patrol duties is not liable for civil damages as a  
921 result of any act or omission in rendering the emergency care, unless the act or omission is the  
922 result of gross negligence or willful misconduct.

923 (7) An emergency medical service provider who, in good faith, transports an individual  
924 against his will but at the direction of a law enforcement officer pursuant to Section  
925 [62A-15-629](#) is not liable for civil damages for transporting the individual.

926 Section 19. Section **26-8d-104** is amended to read:

927 **26-8d-104. Stroke registry advisory committee.**

928 (1) There is created within the department a stroke registry advisory committee.

929 (2) The stroke registry advisory committee created in Subsection (1) shall:

930 (a) be composed of individuals knowledgeable in adult and pediatric stroke care,  
931 including physicians, physician assistants, nurses, hospital administrators, emergency medical  
932 services personnel, government officials, consumers, and persons affiliated with professional  
933 health care associations;

934 (b) advise the department regarding the development and implementation of the stroke  
935 registry;

936 (c) assist the department in evaluating the quality and outcomes of the stroke registry;

937 and

938 (d) review and comment on proposals and rules governing the statewide stroke registry.

939 Section 20. Section **26-8d-105** is amended to read:

940 **26-8d-105. Cardiac registry advisory committee.**

941 (1) There is created within the department a cardiac registry advisory committee.

942 (2) The cardiac registry advisory committee created in Subsection (1) shall:

943 (a) be composed of individuals knowledgeable in adult and pediatric cardiac care,  
944 including physicians, physician assistants, nurses, hospital administrators, emergency medical  
945 services personnel, government officials, consumers, and persons affiliated with professional  
946 health care associations;

947 (b) advise the department regarding the development and implementation of the  
948 cardiac registry;

949 (c) assist the department in evaluating the quality and outcomes of the cardiac registry;

950 and

951 (d) review and comment on proposals and rules governing the statewide cardiac  
952 registry.

953 Section 21. Section **26-10-11** is amended to read:

954 **26-10-11. Children's Hearing Aid Program.**

955 (1) The department shall offer a program to provide hearing aids to children who  
956 qualify under this section.

957 (2) The department shall provide hearing aids to a child who:

- 958 (a) is younger than six years old;
- 959 (b) is a resident of Utah;
- 960 (c) has been diagnosed with hearing loss by:
  - 961 (i) an audiologist with pediatric expertise; and
  - 962 (ii) a physician or physician assistant;
- 963 (d) provides documentation from an audiologist with pediatric expertise certifying that
- 964 the child needs hearing aids;
- 965 (e) has obtained medical clearance by a medical provider for hearing aid fitting;
- 966 (f) does not qualify to receive a contribution that equals the full cost of a hearing aid
- 967 from the state's Medicaid program or the Utah Children's Health Insurance Program; and
- 968 (g) meets the financial need qualification criteria established by the department by rule,
- 969 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
- 970 participation in the program.
- 971 (3) (a) There is established the Children's Hearing Aid Advisory Committee.
- 972 (b) The committee shall be composed of five members appointed by the executive
- 973 director, and shall include:
  - 974 (i) one audiologist with pediatric expertise;
  - 975 (ii) one speech language pathologist;
  - 976 (iii) one teacher, certified under Title 53E, Public Education System -- State
  - 977 Administration, as a teacher of the deaf or a listening and spoken language therapist;
  - 978 (iv) one ear, nose, and throat specialist; and
  - 979 (v) one parent whose child:
    - 980 (A) is six years old or older; and
    - 981 (B) has hearing loss.
  - 982 (c) A majority of the members constitutes a quorum.
  - 983 (d) A vote of the majority of the members, with a quorum present, constitutes an action
  - 984 of the committee.
  - 985 (e) The committee shall elect a chair from its members.
  - 986 (f) The committee shall:
    - 987 (i) meet at least quarterly;
    - 988 (ii) recommend to the department medical criteria and procedures for selecting children

989 who may qualify for assistance from the account; and

990 (iii) review rules developed by the department.

991 (g) A member may not receive compensation or benefits for the member's service, but  
992 may receive per diem and travel expenses in accordance with Sections 63A-3-106 and  
993 63A-3-107 and rules made by the Division of Finance, pursuant to Sections 63A-3-106 and  
994 63A-3-107.

995 (h) The department shall provide staff to the committee.

996 (4) (a) There is created within the General Fund a restricted account known as the  
997 "Children's Hearing Aid Program Restricted Account."

998 (b) The Children's Hearing Aid Program Restricted Account shall consist of:

999 (i) amounts appropriated to the account by the Legislature; and

1000 (ii) gifts, grants, devises, donations, and bequests of real property, personal property, or  
1001 services, from any source, or any other conveyance that may be made to the account from  
1002 private sources.

1003 (c) Upon appropriation, all actual and necessary operating expenses for the committee  
1004 described in Subsection (3) shall be paid by the account.

1005 (d) Upon appropriation, no more than 9% of the account money may be used for the  
1006 department's expenses.

1007 (e) If this account is repealed in accordance with Section 63I-1-226, any remaining  
1008 assets in the account shall be deposited into the General Fund.

1009 (5) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah  
1010 Administrative Rulemaking Act, to establish procedures for:

1011 (a) identifying the children who are financially eligible to receive services under the  
1012 program; and

1013 (b) reviewing and paying for services provided to a child under the program.

1014 (6) The department shall, before December 1 of each year, submit a report to the  
1015 Health and Human Services Interim Committee that describes the operation and  
1016 accomplishments of the program.

1017 Section 22. Section 26-18-107 is amended to read:

1018 **26-18-107. Retrospective and prospective DUR.**

1019 (1) The board, in cooperation with the division, shall include in its state plan the

1020 creation and implementation of a retrospective and prospective DUR program for Medicaid  
1021 outpatient drugs to ensure that prescriptions are appropriate, medically necessary, and not likely  
1022 to result in adverse medical outcomes.

1023 (2) The retrospective and prospective DUR program shall be operated under guidelines  
1024 established by the board under Subsections (3) and (4).

1025 (3) The retrospective DUR program shall be based on guidelines established by the  
1026 board, using the mechanized drug claims processing and information retrieval system to  
1027 analyze claims data in order to:

1028 (a) identify patterns of fraud, abuse, gross overuse, and inappropriate or medically  
1029 unnecessary care; and

1030 (b) assess data on drug use against explicit predetermined standards that are based on  
1031 the compendia and other sources for the purpose of monitoring:

1032 (i) therapeutic appropriateness;

1033 (ii) overutilization or underutilization;

1034 (iii) therapeutic duplication;

1035 (iv) drug-disease contraindications;

1036 (v) drug-drug interactions;

1037 (vi) incorrect drug dosage or duration of drug treatment; and

1038 (vii) clinical abuse and misuse.

1039 (4) The prospective DUR program shall be based on guidelines established by the  
1040 board and shall provide that, before a prescription is filled or delivered, a review will be  
1041 conducted by the pharmacist at the point of sale to screen for potential drug therapy problems  
1042 resulting from:

1043 (a) therapeutic duplication;

1044 (b) drug-drug interactions;

1045 (c) incorrect dosage or duration of treatment;

1046 (d) drug-allergy interactions; and

1047 (e) clinical abuse or misuse.

1048 (5) In conducting the prospective DUR, a pharmacist may not alter the prescribed  
1049 outpatient drug therapy without the consent of the prescribing physician or physician assistant.

1050 This section does not effect the ability of a pharmacist to substitute a generic equivalent.

1051 Section 23. Section **26-21-2** is amended to read:

1052 **26-21-2. Definitions.**

1053 As used in this chapter:

1054 (1) "Abortion clinic" means a type I abortion clinic or a type II abortion clinic.

1055 (2) "Activities of daily living" means essential activities including:

1056 (a) dressing;

1057 (b) eating;

1058 (c) grooming;

1059 (d) bathing;

1060 (e) toileting;

1061 (f) ambulation;

1062 (g) transferring; and

1063 (h) self-administration of medication.

1064 (3) "Ambulatory surgical facility" means a freestanding facility, which provides  
1065 surgical services to patients not requiring hospitalization.

1066 (4) "Assistance with activities of daily living" means providing of or arranging for the  
1067 provision of assistance with activities of daily living.

1068 (5) (a) "Assisted living facility" means:

1069 (i) a type I assisted living facility, which is a residential facility that provides assistance  
1070 with activities of daily living and social care to two or more residents who:

1071 (A) require protected living arrangements; and

1072 (B) are capable of achieving mobility sufficient to exit the facility without the  
1073 assistance of another person; and

1074 (ii) a type II assisted living facility, which is a residential facility with a home-like  
1075 setting that provides an array of coordinated supportive personal and health care services  
1076 available 24 hours per day to residents who have been assessed under department rule to need  
1077 any of these services.

1078 (b) Each resident in a type I or type II assisted living facility shall have a service plan  
1079 based on the assessment, which may include:

1080 (i) specified services of intermittent nursing care;

1081 (ii) administration of medication; and

- 1082 (iii) support services promoting residents' independence and self sufficiency.
- 1083 (6) "Birthing center" means a freestanding facility, receiving maternal clients and  
1084 providing care during pregnancy, delivery, and immediately after delivery.
- 1085 (7) "Committee" means the Health Facility Committee created in Section 26-1-7.
- 1086 (8) "Consumer" means any person not primarily engaged in the provision of health care  
1087 to individuals or in the administration of facilities or institutions in which such care is provided  
1088 and who does not hold a fiduciary position, or have a fiduciary interest in any entity involved in  
1089 the provision of health care, and does not receive, either directly or through his spouse, more  
1090 than 1/10 of his gross income from any entity or activity relating to health care.
- 1091 (9) "End stage renal disease facility" means a facility which furnishes staff-assisted  
1092 kidney dialysis services, self-dialysis services, or home-dialysis services on an outpatient basis.
- 1093 (10) "Freestanding" means existing independently or physically separated from another  
1094 health care facility by fire walls and doors and administrated by separate staff with separate  
1095 records.
- 1096 (11) "General acute hospital" means a facility which provides diagnostic, therapeutic,  
1097 and rehabilitative services to both inpatients and outpatients by or under the supervision of  
1098 physicians.
- 1099 (12) "Governmental unit" means the state, or any county, municipality, or other  
1100 political subdivision or any department, division, board, or agency of the state, a county,  
1101 municipality, or other political subdivision.
- 1102 (13) (a) "Health care facility" means general acute hospitals, specialty hospitals, home  
1103 health agencies, hospices, nursing care facilities, residential-assisted living facilities, birthing  
1104 centers, ambulatory surgical facilities, small health care facilities, abortion clinics, facilities  
1105 owned or operated by health maintenance organizations, end stage renal disease facilities, and  
1106 any other health care facility which the committee designates by rule.
- 1107 (b) "Health care facility" does not include the offices of private physicians, physician  
1108 assistants, or dentists, whether for individual or group practice, except that it does include an  
1109 abortion clinic.
- 1110 (14) "Health maintenance organization" means an organization, organized under the  
1111 laws of any state which:
- 1112 (a) is a qualified health maintenance organization under 42 U.S.C. Sec. 300e-9; or

1113 (b) (i) provides or otherwise makes available to enrolled participants at least the  
1114 following basic health care services: usual physician services, hospitalization, laboratory, x-ray,  
1115 emergency, and preventive services and out-of-area coverage;

1116 (ii) is compensated, except for copayments, for the provision of the basic health  
1117 services listed in Subsection (14)(b)(i) to enrolled participants by a payment which is paid on a  
1118 periodic basis without regard to the date the health services are provided and which is fixed  
1119 without regard to the frequency, extent, or kind of health services actually provided; and

1120 (iii) provides physicians' services primarily directly through physicians who are either  
1121 employees or partners of such organizations, or through arrangements with individual  
1122 physicians or one or more groups of physicians organized on a group practice or individual  
1123 practice basis.

1124 (15) (a) "Home health agency" means an agency, organization, or facility or a  
1125 subdivision of an agency, organization, or facility which employs two or more direct care staff  
1126 persons who provide licensed nursing services, therapeutic services of physical therapy, speech  
1127 therapy, occupational therapy, medical social services, or home health aide services on a  
1128 visiting basis.

1129 (b) "Home health agency" does not mean an individual who provides services under  
1130 the authority of a private license.

1131 (16) "Hospice" means a program of care for the terminally ill and their families which  
1132 occurs in a home or in a health care facility and which provides medical, palliative,  
1133 psychological, spiritual, and supportive care and treatment.

1134 (17) "Nursing care facility" means a health care facility, other than a general acute or  
1135 specialty hospital, constructed, licensed, and operated to provide patient living  
1136 accommodations, 24-hour staff availability, and at least two of the following patient services:

1137 (a) a selection of patient care services, under the direction and supervision of a  
1138 registered nurse, ranging from continuous medical, skilled nursing, psychological, or other  
1139 professional therapies to intermittent health-related or paraprofessional personal care services;

1140 (b) a structured, supportive social living environment based on a professionally  
1141 designed and supervised treatment plan, oriented to the individual's habilitation or  
1142 rehabilitation needs; or

1143 (c) a supervised living environment that provides support, training, or assistance with

1144 individual activities of daily living.

1145 (18) "Person" means any individual, firm, partnership, corporation, company,  
1146 association, or joint stock association, and the legal successor thereof.

1147 (19) "Resident" means a person 21 years of age or older who:

1148 (a) as a result of physical or mental limitations or age requires or requests services  
1149 provided in an assisted living facility; and

1150 (b) does not require intensive medical or nursing services as provided in a hospital or  
1151 nursing care facility.

1152 (20) "Small health care facility" means a four to 16 bed facility that provides licensed  
1153 health care programs and services to residents.

1154 (21) "Specialty hospital" means a facility which provides specialized diagnostic,  
1155 therapeutic, or rehabilitative services in the recognized specialty or specialties for which the  
1156 hospital is licensed.

1157 (22) "Substantial compliance" means in a department survey of a licensee, the  
1158 department determines there is an absence of deficiencies which would harm the physical  
1159 health, mental health, safety, or welfare of patients or residents of a licensee.

1160 (23) "Type I abortion clinic" means a facility, including a physician's office, but not  
1161 including a general acute or specialty hospital, that:

1162 (a) performs abortions, as defined in Section 76-7-301, during the first trimester of  
1163 pregnancy; and

1164 (b) does not perform abortions, as defined in Section 76-7-301, after the first trimester  
1165 of pregnancy.

1166 (24) "Type II abortion clinic" means a facility, including a physician's office, but not  
1167 including a general acute or specialty hospital, that:

1168 (a) performs abortions, as defined in Section 76-7-301, after the first trimester of  
1169 pregnancy; or

1170 (b) performs abortions, as defined in Section 76-7-301, during the first trimester of  
1171 pregnancy and after the first trimester of pregnancy.

1172 Section 24. Section 26-21-7 is amended to read:

1173 **26-21-7. Exempt facilities.**

1174 This chapter does not apply to:

1175 (1) a dispensary or first aid facility maintained by any commercial or industrial plant,  
1176 educational institution, or convent;

1177 (2) a health care facility owned or operated by an agency of the United States;

1178 (3) the office of a physician, physician assistants, or dentist whether it is an individual  
1179 or group practice, except that it does apply to an abortion clinic;

1180 (4) a health care facility established or operated by any recognized church or  
1181 denomination for the practice of religious tenets administered by mental or spiritual means  
1182 without the use of drugs, whether gratuitously or for compensation, if it complies with statutes  
1183 and rules on environmental protection and life safety;

1184 (5) any health care facility owned or operated by the Department of Corrections,  
1185 created in Section [64-13-2](#); and

1186 (6) a residential facility providing 24-hour care:

1187 (a) that does not employ direct care staff;

1188 (b) in which the residents of the facility contract with a licensed hospice agency to  
1189 receive end-of-life medical care; and

1190 (c) that meets other requirements for an exemption as designated by administrative  
1191 rule.

1192 Section 25. Section **26-21-29** is amended to read:

1193 **26-21-29. Birthing centers -- Regulatory restrictions.**

1194 (1) For purposes of this section:

1195 (a) "Certified nurse midwife" means an individual who is licensed under Title 58,  
1196 Chapter 44a, Nurse Midwife Practice Act.

1197 (b) "Direct-entry midwife" means an individual who is licensed under Title 58, Chapter  
1198 77, Direct-Entry Midwife Act.

1199 (c) "Licensed maternity care practitioner" includes:

1200 (i) a physician;

1201 (ii) a physician assistant;

1202 ~~[(ii)]~~ (iii) a certified nurse midwife;

1203 ~~[(iii)]~~ (iv) a direct entry midwife;

1204 ~~[(iv)]~~ (v) a naturopathic physician; and

1205 ~~[(v)]~~ (vi) other individuals who are licensed under Title 58, ~~[Division of Occupational~~

1206 ~~and Professional Licensing Act]~~ Occupations and Professions, and whose scope of practice  
1207 includes midwifery or obstetric care.

1208 (d) "Naturopathic physician" means an individual who is licensed under Title 58,  
1209 Chapter 71, Naturopathic Physician Practice Act.

1210 (e) "Physician" means an individual who is licensed under Title 58, Chapter 67, Utah  
1211 Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

1212 (f) "Physician assistant" means an individual who is licensed under Title 58, Chapter  
1213 70a, Utah Physician Assistant Act.

1214 (2) The Health Facility Committee and the department may not require a birthing  
1215 center or a licensed maternity care practitioner who practices at a birthing center to:

1216 (a) maintain admitting privileges at a general acute hospital;

1217 (b) maintain a written transfer agreement with one or more general acute hospitals;

1218 (c) maintain a collaborative practice agreement with a physician; or

1219 (d) have a physician or certified nurse midwife present at each birth when another  
1220 licensed maternity care practitioner is present at the birth and remains until the maternal patient  
1221 and newborn are stable postpartum.

1222 (3) The Health Facility Committee and the department shall:

1223 (a) permit all types of licensed maternity care practitioners to practice in a birthing  
1224 center; and

1225 (b) except as provided in Subsection (2)(b), require a birthing center to have a written  
1226 plan for the transfer of a patient to a hospital in accordance with Subsection (4).

1227 (4) A transfer plan under Subsection (3)(b) shall:

1228 (a) be signed by the patient; and

1229 (b) indicate that the plan is not an agreement with a hospital.

1230 (5) If a birthing center transfers a patient to a licensed maternity care practitioner or  
1231 facility, the responsibility of the licensed maternity care practitioner or facility, for the patient:

1232 (a) does not begin until the patient is physically within the care of the licensed  
1233 maternity care practitioner or facility;

1234 (b) is limited to the examination and care provided after the patient is transferred to the  
1235 licensed maternity care practitioner or facility; and

1236 (c) does not include responsibility or accountability for the patient's decision to pursue

1237 an out-of-hospital birth and the services of a birthing center.

1238 (6) (a) Except as provided in Subsection (6)(c), a licensed maternity care practitioner  
1239 who is not practicing at a birthing center may, upon receiving a briefing from a member of a  
1240 birthing center's clinical staff, issue a medical order for the birthing center's patient without  
1241 assuming liability for the care of the patient for whom the order was issued.

1242 (b) Regardless of the advice given or order issued under Subsection (6)(a), the  
1243 responsibility and liability for caring for the patient is that of the birthing center and the  
1244 birthing center's clinical staff.

1245 (c) The licensed maternity care practitioner giving the order under Subsection (6)(a) is  
1246 responsible and liable only for the appropriateness of the order, based on the briefing received  
1247 under Subsection (6)(a).

1248 (7) The department shall hold a public hearing under Subsection [63G-3-302\(2\)\(a\)](#) for a  
1249 proposed administrative rule, and amendment to a rule, or repeal of a rule, that relates to  
1250 birthing centers.

1251 Section 26. Section **26-28-114** is amended to read:

1252 **26-28-114. Rights and duties of procurement organization and others.**

1253 (1) When a hospital refers an individual at or near death to a procurement organization,  
1254 the organization shall make a reasonable search of the records of the Department of Public  
1255 Safety and any donor registry that it knows exists for the geographical area in which the  
1256 individual resides to ascertain whether the individual has made an anatomical gift.

1257 (2) A procurement organization shall be allowed reasonable access to information in  
1258 the records of the Department of Public Safety to ascertain whether an individual at or near  
1259 death is a donor.

1260 (3) When a hospital refers an individual at or near death to a procurement organization,  
1261 the organization may conduct any reasonable examination necessary to ensure the medical  
1262 suitability of a part that is or could be the subject of an anatomical gift for transplantation,  
1263 therapy, research, or education from a donor or a prospective donor. During the examination  
1264 period, measures necessary to ensure the medical suitability of the part may not be withdrawn  
1265 unless the hospital or procurement organization knows that the individual expressed a contrary  
1266 intent.

1267 (4) Unless prohibited by law other than this chapter, at any time after a donor's death,

1268 the person to which a part passes under Section 26-28-111 may conduct any reasonable  
1269 examination necessary to ensure the medical suitability of the body or part for its intended  
1270 purpose.

1271 (5) Unless prohibited by law other than this chapter, an examination under Subsection  
1272 (3) or (4) may include an examination of all medical and dental records of the donor or  
1273 prospective donor.

1274 (6) Upon the death of a minor who was a donor or had signed a refusal, unless a  
1275 procurement organization knows the minor is emancipated, the procurement organization shall  
1276 conduct a reasonable search for the parents of the minor and provide the parents with an  
1277 opportunity to revoke or amend the anatomical gift or revoke the refusal.

1278 (7) Upon referral by a hospital under Subsection (1), a procurement organization shall  
1279 make a reasonable search for any person listed in Section 26-28-109 having priority to make an  
1280 anatomical gift on behalf of a prospective donor. If a procurement organization receives  
1281 information that an anatomical gift to any other person was made, amended, or revoked, it shall  
1282 promptly advise the other person of all relevant information.

1283 (8) Subject to Subsection 26-28-111(9) and Section 26-28-123, the rights of the person  
1284 to which a part passes under Section 26-28-111 are superior to the rights of all others with  
1285 respect to the part. The person may accept or reject an anatomical gift in whole or in part.  
1286 Subject to the terms of the document of gift and this chapter, a person that accepts an  
1287 anatomical gift of an entire body may allow embalming, burial or cremation, and use of  
1288 remains in a funeral service. If the gift is of a part, the person to which the part passes under  
1289 Section 26-28-111, upon the death of the donor and before embalming, burial, or cremation,  
1290 shall cause the part to be removed without unnecessary mutilation.

1291 (9) Neither the physician or physician assistant who attends the decedent at death nor  
1292 the physician or physician assistant who determines the time of the decedent's death may  
1293 participate in the procedures for removing or transplanting a part from the decedent.

1294 (10) A physician, physician assistant, or technician may remove a donated part from  
1295 the body of a donor that the physician, physician assistant, or technician is qualified to remove.

1296 Section 27. Section 26-33a-102 is amended to read:

1297 **26-33a-102. Definitions.**

1298 As used in this chapter:

- 1299 (1) "Committee" means the Health Data Committee created by Section 26-1-7.
- 1300 (2) "Control number" means a number assigned by the committee to an individual's  
1301 health data as an identifier so that the health data can be disclosed or used in research and  
1302 statistical analysis without readily identifying the individual.
- 1303 (3) "Data supplier" means a health care facility, health care provider, self-funded  
1304 employer, third-party payor, health maintenance organization, or government department which  
1305 could reasonably be expected to provide health data under this chapter.
- 1306 (4) "Disclosure" or "disclose" means the communication of health care data to any  
1307 individual or organization outside the committee, its staff, and contracting agencies.
- 1308 (5) "Executive director" means the director of the department.
- 1309 (6) (a) "Health care facility" means a facility that is licensed by the department under  
1310 Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.
- 1311 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1312 committee, with the concurrence of the department, may by rule add, delete, or modify the list  
1313 of facilities that come within this definition for purposes of this chapter.
- 1314 (7) "Health care provider" means any person, partnership, association, corporation, or  
1315 other facility or institution that renders or causes to be rendered health care or professional  
1316 services as a physician, physician assistant, registered nurse, licensed practical nurse,  
1317 nurse-midwife, dentist, dental hygienist, optometrist, clinical laboratory technologist,  
1318 pharmacist, physical therapist, podiatric physician, psychologist, chiropractic physician,  
1319 naturopathic physician, osteopathic physician, osteopathic physician and surgeon, audiologist,  
1320 speech pathologist, certified social worker, social service worker, social service aide, marriage  
1321 and family counselor, or practitioner of obstetrics, and others rendering similar care and  
1322 services relating to or arising out of the health needs of persons or groups of persons, and  
1323 officers, employees, or agents of any of the above acting in the course and scope of their  
1324 employment.
- 1325 (8) "Health data" means information relating to the health status of individuals, health  
1326 services delivered, the availability of health manpower and facilities, and the use and costs of  
1327 resources and services to the consumer, except vital records as defined in Section 26-2-2 shall  
1328 be excluded.
- 1329 (9) "Health maintenance organization" has the meaning set forth in Section 31A-8-101.

1330 (10) "Identifiable health data" means any item, collection, or grouping of health data  
1331 that makes the individual supplying or described in the health data identifiable.

1332 (11) "Individual" means a natural person.

1333 (12) "Organization" means any corporation, association, partnership, agency,  
1334 department, unit, or other legally constituted institution or entity, or part thereof.

1335 (13) "Research and statistical analysis" means activities using health data analysis  
1336 including:

1337 (a) describing the group characteristics of individuals or organizations;

1338 (b) analyzing the noncompliance among the various characteristics of individuals or  
1339 organizations;

1340 (c) conducting statistical procedures or studies to improve the quality of health data;

1341 (d) designing sample surveys and selecting samples of individuals or organizations;

1342 and

1343 (e) preparing and publishing reports describing these matters.

1344 (14) "Self-funded employer" means an employer who provides for the payment of  
1345 health care services for employees directly from the employer's funds, thereby assuming the  
1346 financial risks rather than passing them on to an outside insurer through premium payments.

1347 (15) "Plan" means the plan developed and adopted by the Health Data Committee  
1348 under Section [26-33a-104](#).

1349 (16) "Third party payor" means:

1350 (a) an insurer offering a health benefit plan, as defined by Section [31A-1-301](#), to at  
1351 least 2,500 enrollees in the state;

1352 (b) a nonprofit health service insurance corporation licensed under Title 31A, Chapter  
1353 7, Nonprofit Health Service Insurance Corporations;

1354 (c) a program funded or administered by Utah for the provision of health care services,  
1355 including the Medicaid and medical assistance programs described in Chapter 18, Medical  
1356 Assistance Act; and

1357 (d) a corporation, organization, association, entity, or person:

1358 (i) which administers or offers a health benefit plan to at least 2,500 enrollees in the  
1359 state; and

1360 (ii) which is required by administrative rule adopted by the department in accordance

1361 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to supply health data to the  
1362 committee.

1363 Section 28. Section **26-64-105** is amended to read:

1364 **26-64-105. Standing prescription drug orders for a self-administered hormonal**  
1365 **contraceptive.**

1366 A physician or physician assistant who is licensed to prescribe a self-administered  
1367 hormonal contraceptive, including a physician or physician assistant acting in the physician's or  
1368 physician assistant's capacity as an employee of the department, or a medical director of a local  
1369 health department, may issue a standing prescription drug order authorizing the dispensing of  
1370 the self-administered hormonal contraceptive under Section **26-64-104** in accordance with a  
1371 protocol that:

1372 (1) requires the physician or physician assistant to specify the persons, by professional  
1373 license number, authorized to dispense the self-administered hormonal contraceptive;

1374 (2) requires the physician or physician assistant to review at least annually the  
1375 dispensing practices of those authorized by the physician or physician assistant to dispense the  
1376 self-administered hormonal contraceptive;

1377 (3) requires those authorized by the physician or physician assistant to dispense the  
1378 self-administered hormonal contraceptive to make and retain a record of each person to whom  
1379 the self-administered hormonal contraceptive is dispensed, including:

1380 (a) the name of the person;

1381 (b) the drug dispensed; and

1382 (c) other relevant information; and

1383 (4) is approved by the department by administrative rule made in accordance with Title  
1384 63G, Chapter 3, Utah Administrative Rulemaking Act.

1385 Section 29. Section **26-64-107** is amended to read:

1386 **26-64-107. Limited civil liability.**

1387 A physician or physician assistant who issues a standing prescription drug order in  
1388 accordance with Section **26-64-105** is not liable for any civil damages for acts or omissions  
1389 resulting from the dispensing of a self-administered hormonal contraceptive under this chapter.

1390 Section 30. Section **31A-22-624** is amended to read:

1391 **31A-22-624. Primary care physician or physician assistant.**

1392 An accident and health insurance policy that requires an insured to select a primary care  
1393 physician to receive optimum coverage:

1394 (1) shall permit an insured to select a participating provider who:

1395 (a) is an:

1396 (i) obstetrician;

1397 (ii) gynecologist; [or]

1398 (iii) pediatrician; [and] or

1399 (iv) physician assistant; and

1400 (b) is qualified and willing to provide primary care services, as defined by the health  
1401 care plan, as the insured's provider from whom primary care services are received;

1402 (2) shall clearly state in literature explaining the policy the option available to insureds  
1403 under Subsection (1); and

1404 (3) may not impose a higher premium, higher copayment requirement, or any other  
1405 additional expense on an insured because the insured selected a primary care physician in  
1406 accordance with Subsection (1).

1407 Section 31. Section 31A-22-649 is amended to read:

1408 **31A-22-649. Coverage of telepsychiatric consultations.**

1409 (1) As used in this section:

1410 (a) "Telehealth services" means the same as that term is defined in Section 26-60-102.

1411 (b) "Telepsychiatric consultation" means a consultation [~~between a physician and a~~  
1412 ~~board certified psychiatrist, both of whom are licensed to engage in the practice of medicine in~~  
1413 ~~the state,];~~

1414 (i) between the following individuals who are licensed to practice in the state:

1415 (A) a physician or physician assistant; and

1416 (B) a board certified psychiatrist or a physician assistant working with a psychiatrist;

1417 and

1418 (ii) that utilizes:

1419 [(i)] (A) the health records of the patient, provided from the patient or the referring  
1420 physician;

1421 [(ii)] (B) a written, evidence-based patient questionnaire; and

1422 [(iii)] (C) telehealth services that meet industry security and privacy standards,

1423 including compliance with the[~~(A)~~] Health Insurance Portability and Accountability Act[~~, and~~  
1424 ~~(B)~~] and the Health Information Technology for Economic and Clinical Health Act, Pub. L.  
1425 No. 111-5, 123 Stat. 226, 467, as amended.

1426 (2) Beginning January 1, 2019, a health benefit plan that offers coverage for mental  
1427 health services shall:

1428 (a) provide coverage for a telepsychiatric consultation during or after an initial visit  
1429 between the patient and a referring in-network physician or physician assistant;

1430 (b) provide coverage for a telepsychiatric consultation from an out-of-network board  
1431 certified psychiatrist if a telepsychiatric consultation is not made available to a physician or  
1432 physician assistant within seven business days after the initial request is made by the physician  
1433 or physician assistant to an in-network provider of telepsychiatric consultations; and

1434 (c) reimburse for the services described in Subsections (2)(a) and (b) at the equivalent  
1435 in-network or out-of-network rate set by the health benefit plan after taking into account  
1436 cost-sharing that may be required under the health benefit plan.

1437 (3) A single telepsychiatric consultation includes all contacts, services, discussion, and  
1438 information review required to complete an individual request from a referring physician or  
1439 physician assistant for a patient.

1440 (4) An insurer may satisfy the requirement to cover a telepsychiatric consultation  
1441 described in Subsection (2)(a) for a patient by:

1442 (a) providing coverage for behavioral health treatment, as defined in Section  
1443 [31A-22-642](#), in person or using telehealth services; and

1444 (b) ensuring that the patient receives an appointment for the behavioral health  
1445 treatment in person or using telehealth services on a date that is within seven business days  
1446 after the initial request is made by the in-network referring physician or physician assistant.

1447 (5) A referring physician or physician assistant who uses a telepsychiatric consultation  
1448 for a patient shall, at the time that the questionnaire described in Subsection (1)(b)(ii) is  
1449 completed, notify the patient that:

1450 (a) the referring physician or physician assistant plans to request a telepsychiatric  
1451 consultation; and

1452 (b) additional charges to the patient may apply.

1453 (6) (a) An insurer may receive a temporary waiver from the department from the

1454 requirements in this section if the insurer demonstrates to the department that the insurer is  
1455 unable to provide the benefits described in this section due to logistical reasons.

1456 (b) An insurer that receives a waiver from the department under Subsection (6)(a) is  
1457 subject to the requirements of this section beginning July 1, 2019.

1458 (7) This section does not limit an insurer from engaging in activities that ensure  
1459 payment integrity or facilitate review and investigation of improper practices by health care  
1460 providers.

1461 Section 32. Section **41-1a-420** is amended to read:

1462 **41-1a-420. Disability special group license plates -- Application and qualifications**  
1463 **-- Rulemaking.**

1464 (1) As used in this section:

1465 (a) "Advanced practice registered nurse" means a person licensed to practice as an  
1466 advanced practice registered nurse in this state under Title 58, Chapter 31b, Nurse Practice Act.

1467 (b) "Nurse practitioner" means an advanced practice registered nurse specializing as a  
1468 nurse practitioner.

1469 (c) "Physician" means a person licensed to practice as a physician or osteopath in this  
1470 state under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah  
1471 Osteopathic Medical Practice Act.

1472 (d) "Physician assistant" means an individual licensed to practice as a physician  
1473 assistant in the state under Title 58, Chapter 70a, Utah Physician Assistant Act.

1474 [~~(d)~~] (e) "Temporary wheelchair user placard" means a removable windshield placard  
1475 that is issued to a qualifying person, as provided in this section, who has a walking disability  
1476 that is not permanent.

1477 [~~(e)~~] (f) "Walking disability" means a physical disability that requires the use of a  
1478 walking-assistive device or wheelchair or similar low-powered motorized or mechanically  
1479 propelled vehicle that is designed to specifically assist a person who has a limited or impaired  
1480 ability to walk.

1481 [~~(f)~~] (g) "Wheelchair user placard" means a removable windshield placard that is  
1482 issued to a qualifying person, as provided in this section, who has a walking disability.

1483 (2) (a) The division shall issue a disability special group license plate, a temporary  
1484 removable windshield placard, or a removable windshield placard to an applicant who is either:

- 1485 (i) a qualifying person with a disability; or
- 1486 (ii) the registered owner of a vehicle that an organization uses primarily for the  
1487 transportation of persons with disabilities that limit or impair the ability to walk.
- 1488 (b) The division shall issue a temporary wheelchair user placard or a wheelchair user  
1489 placard to an applicant who is either:
- 1490 (i) a qualifying person with a walking disability; or
- 1491 (ii) the registered owner of a vehicle that an organization uses primarily for the  
1492 transportation of persons with walking disabilities.
- 1493 (c) The division shall require that an applicant under Subsection (2)(b) certifies that the  
1494 person travels in a vehicle equipped with a wheelchair lift or a vehicle carrying the person's  
1495 walking-assistive device or wheelchair and requires a van accessible parking space.
- 1496 (3) (a) The person with a disability shall ensure that the initial application contains the  
1497 certification of a physician, physician assistant, or nurse practitioner that:
- 1498 (i) the applicant meets the definition of a person with a disability that limits or impairs  
1499 the ability to walk as defined in the federal Uniform System for Parking for Persons with  
1500 Disabilities, 23 C.F.R. Ch. II, Subch. B, Pt. 1235.2 (1991);
- 1501 (ii) if the person is applying for a temporary wheelchair user placard or a wheelchair  
1502 user placard, the applicant has a walking disability; and
- 1503 (iii) specifies the period of time that the physician, physician assistant, or nurse  
1504 practitioner determines the applicant will have the disability, not to exceed six months in the  
1505 case of a temporary disability or a temporary walking disability.
- 1506 (b) The division shall issue a disability special group license plate, a removable  
1507 windshield placard, or a wheelchair user placard, as applicable, to a person with a permanent  
1508 disability.
- 1509 (c) The issuance of a person with a disability special group license plate does not  
1510 preclude the issuance to the same applicant of a removable windshield placard or wheelchair  
1511 user placard.
- 1512 (d) (i) On request of an applicant with a disability special group license plate, a  
1513 temporary removable windshield placard, or a removable windshield placard, the division shall  
1514 issue one additional placard.
- 1515 (ii) On request of a qualified applicant with a disability special group license plate, the

1516 division shall issue up to two temporary wheelchair user placards or two wheelchair user  
1517 placards.

1518 (iii) On request of a qualified applicant with a temporary wheelchair user placard or a  
1519 wheelchair user placard, the division shall issue one additional placard.

1520 (e) The division shall ensure that a temporary wheelchair user placard and a wheelchair  
1521 user placard have the following visible features:

1522 (i) a large "W" next to the internationally recognized disabled persons symbol; and

1523 (ii) the words "Wheelchair User" printed on a portion of the placard.

1524 (f) A disability special group license plate, temporary removable windshield placard, or  
1525 removable windshield placard may be used to allow one motorcycle to share a parking space  
1526 reserved for persons with a disability if:

1527 (i) the person with a disability:

1528 (A) is using a motorcycle; and

1529 (B) displays on the motorcycle a disability special group license plate, temporary  
1530 removable windshield placard, or a removable windshield placard;

1531 (ii) the person who shares the parking space assists the person with a disability with the  
1532 parking accommodation; and

1533 (iii) the parking space is sufficient size to accommodate both motorcycles without  
1534 interfering with other parking spaces or traffic movement.

1535 (4) (a) When a vehicle is parked in a parking space reserved for persons with  
1536 disabilities, a temporary removable windshield placard, a removable windshield placard, a  
1537 temporary wheelchair user placard, or a wheelchair user placard shall be displayed so that the  
1538 placard is visible from the front of the vehicle.

1539 (b) If a motorcycle is being used, the temporary removable windshield placard or  
1540 removable windshield placard shall be displayed in plain sight on or near the handle bars of the  
1541 motorcycle.

1542 (5) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah  
1543 Administrative Rulemaking Act, to:

1544 (a) establish qualifying criteria for persons to receive, renew, or surrender a disability  
1545 special group license plate, a temporary removable windshield placard, a removable windshield  
1546 placard, a temporary wheelchair user placard, or a wheelchair user placard in accordance with

1547 this section;

1548 (b) establish the maximum number of numerals or characters for a disability special  
1549 group license plate;

1550 (c) require all temporary removable windshield placards, removable windshield  
1551 placards, temporary wheelchair user placards, and wheelchair user placards to include:

1552 (i) an identification number;

1553 (ii) an expiration date not to exceed:

1554 (A) six months for a temporary removable windshield placard; and

1555 (B) two years for a removable windshield placard; and

1556 (iii) the seal or other identifying mark of the division.

1557 (6) The commission shall insert the following on motor vehicle registration certificates:

1558 "State law prohibits persons who do not lawfully possess a disability placard or  
1559 disability special group license plate from parking in an accessible parking space designated for  
1560 persons with disabilities. Persons who possess a disability placard or disability special group  
1561 license plate are discouraged from parking in an accessible parking space designated as van  
1562 accessible unless they have a temporary wheelchair user placard or a wheelchair user placard."

1563 Section 33. Section **41-6a-520** is amended to read:

1564 **41-6a-520. Implied consent to chemical tests for alcohol or drug -- Number of**  
1565 **tests -- Refusal -- Warning, report.**

1566 (1) (a) A person operating a motor vehicle in this state is considered to have given the  
1567 person's consent to a chemical test or tests of the person's breath, blood, urine, or oral fluids for  
1568 the purpose of determining whether the person was operating or in actual physical control of a  
1569 motor vehicle while:

1570 (i) having a blood or breath alcohol content statutorily prohibited under Section  
1571 [41-6a-502](#), [41-6a-530](#), or [53-3-231](#);

1572 (ii) under the influence of alcohol, any drug, or combination of alcohol and any drug  
1573 under Section [41-6a-502](#); or

1574 (iii) having any measurable controlled substance or metabolite of a controlled  
1575 substance in the person's body in violation of Section [41-6a-517](#).

1576 (b) A test or tests authorized under this Subsection (1) must be administered at the  
1577 direction of a peace officer having grounds to believe that person to have been operating or in

1578 actual physical control of a motor vehicle while in violation of any provision under Subsections  
1579 (1)(a)(i) through (iii).

1580 (c) (i) The peace officer determines which of the tests are administered and how many  
1581 of them are administered.

1582 (ii) If a peace officer requests more than one test, refusal by a person to take one or  
1583 more requested tests, even though the person does submit to any other requested test or tests, is  
1584 a refusal under this section.

1585 (d) (i) A person who has been requested under this section to submit to a chemical test  
1586 or tests of the person's breath, blood, or urine, or oral fluids may not select the test or tests to be  
1587 administered.

1588 (ii) The failure or inability of a peace officer to arrange for any specific chemical test is  
1589 not a defense to taking a test requested by a peace officer, and it is not a defense in any  
1590 criminal, civil, or administrative proceeding resulting from a person's refusal to submit to the  
1591 requested test or tests.

1592 (2) (a) A peace officer requesting a test or tests shall warn a person that refusal to  
1593 submit to the test or tests may result in revocation of the person's license to operate a motor  
1594 vehicle, a five or 10 year prohibition of driving with any measurable or detectable amount of  
1595 alcohol in the person's body depending on the person's prior driving history, and a three-year  
1596 prohibition of driving without an ignition interlock device if the person:

1597 (i) has been placed under arrest;

1598 (ii) has then been requested by a peace officer to submit to any one or more of the  
1599 chemical tests under Subsection (1); and

1600 (iii) refuses to submit to any chemical test requested.

1601 (b) (i) Following the warning under Subsection (2)(a), if the person does not  
1602 immediately request that the chemical test or tests as offered by a peace officer be  
1603 administered, a peace officer shall, on behalf of the Driver License Division and within 24  
1604 hours of the arrest, give notice of the Driver License Division's intention to revoke the person's  
1605 privilege or license to operate a motor vehicle.

1606 (ii) When a peace officer gives the notice on behalf of the Driver License Division, the  
1607 peace officer shall:

1608 (A) take the Utah license certificate or permit, if any, of the operator;

1609 (B) issue a temporary license certificate effective for only 29 days from the date of  
1610 arrest; and

1611 (C) supply to the operator, in a manner specified by the Driver License Division, basic  
1612 information regarding how to obtain a hearing before the Driver License Division.

1613 (c) A citation issued by a peace officer may, if provided in a manner specified by the  
1614 Driver License Division, also serve as the temporary license certificate.

1615 (d) As a matter of procedure, the peace officer shall submit a signed report, within 10  
1616 calendar days after the day on which notice is provided under Subsection (2)(b), that:

1617 (i) the peace officer had grounds to believe the arrested person was in violation of any  
1618 provision under Subsections (1)(a)(i) through (iii); and

1619 (ii) the person had refused to submit to a chemical test or tests under Subsection (1).

1620 (3) Upon the request of the person who was tested, the results of the test or tests shall  
1621 be made available to the person.

1622 (4) (a) The person to be tested may, at the person's own expense, have a physician or  
1623 physician assistant of the person's own choice administer a chemical test in addition to the test  
1624 or tests administered at the direction of a peace officer.

1625 (b) The failure or inability to obtain the additional test does not affect admissibility of  
1626 the results of the test or tests taken at the direction of a peace officer, or preclude or delay the  
1627 test or tests to be taken at the direction of a peace officer.

1628 (c) The additional test shall be subsequent to the test or tests administered at the  
1629 direction of a peace officer.

1630 (5) For the purpose of determining whether to submit to a chemical test or tests, the  
1631 person to be tested does not have the right to consult an attorney or have an attorney, physician,  
1632 or other person present as a condition for the taking of any test.

1633 (6) Notwithstanding the provisions in this section, a blood test taken under this section  
1634 is subject to Section [77-23-213](#).

1635 Section 34. Section **41-6a-523** is amended to read:

1636 **41-6a-523. Persons authorized to draw blood -- Immunity from liability.**

1637 (1) (a) Only the following, acting at the request of a peace officer, may draw blood to  
1638 determine its alcohol or drug content:

1639 (i) a physician;

1640 (ii) a physician assistant;  
1641 [~~(ii)~~] (iii) a registered nurse;  
1642 [~~(iii)~~] (iv) a licensed practical nurse;  
1643 [~~(iv)~~] (v) a paramedic;  
1644 [~~(v)~~] (vi) as provided in Subsection (1)(b), emergency medical service personnel other  
1645 than paramedics; or  
1646 [~~(vi)~~] (vii) a person with a valid permit issued by the Department of Health under  
1647 Section 26-1-30.

1648 (b) The Department of Health may designate by rule, in accordance with Title 63G,  
1649 Chapter 3, Utah Administrative Rulemaking Act, which emergency medical service personnel,  
1650 as defined in Section 26-8a-102, are authorized to draw blood under Subsection [~~(1)(a)(v)~~]  
1651 (1)(a)(vi), based on the type of license under Section 26-8a-302.

1652 (c) Subsection (1)(a) does not apply to taking a urine, breath, or oral fluid specimen.

1653 (2) The following are immune from civil or criminal liability arising from drawing a  
1654 blood sample from a person whom a peace officer has reason to believe is driving in violation  
1655 of this chapter, if the sample is drawn in accordance with standard medical practice:

1656 (a) a person authorized to draw blood under Subsection (1)(a); and

1657 (b) if the blood is drawn at a hospital or other medical facility, the medical facility.

1658 Section 35. Section 41-6a-1804 is amended to read:

1659 **41-6a-1804. Exceptions.**

1660 (1) This part does not apply to an operator or passenger of:

1661 (a) a motor vehicle manufactured before July 1, 1966;

1662 (b) a motor vehicle in which the operator or passengers possess a written verification  
1663 from a licensed physician or physician assistant that the person is unable to wear a safety belt  
1664 for physical or medical reasons; or

1665 (c) a motor vehicle or seating position which is not required to be equipped with a  
1666 safety belt system under federal law.

1667 (2) This part does not apply to a passenger if all seating positions are occupied by other  
1668 passengers.

1669 (3) This part does not apply to a passenger of a public transit vehicle with a gross  
1670 vehicle weight rating exceeding 10,000 pounds.

1671 Section 36. Section **48-1d-102** is amended to read:

1672 **48-1d-102. Definitions.**

1673 As used in this chapter:

1674 (1) "Business" includes every trade, occupation, and profession.

1675 (2) "Contribution," except in the phrase "right of contribution," means property or a  
1676 benefit described in Section **48-1d-501** which is provided by a person to a partnership to  
1677 become a partner or in the person's capacity as a partner.

1678 (3) "Debtor in bankruptcy" means a person that is the subject of:

1679 (a) an order for relief under Title 11 of the United States Code or a comparable order  
1680 under a successor statute of general application; or

1681 (b) a comparable order under federal, state, or foreign law governing insolvency.

1682 (4) "Distribution" means a transfer of money or other property from a partnership to a  
1683 person on account of a transferable interest or in a person's capacity as a partner. The term:

1684 (a) includes:

1685 (i) a redemption or other purchase by a partnership of a transferable interest; and

1686 (ii) a transfer to a partner in return for the partner's relinquishment of any right to  
1687 participate as a partner in the management or conduct of the partnership's activities and affairs  
1688 or have access to records or other information concerning the partnership's activities and  
1689 affairs; and

1690 (b) does not include amounts constituting reasonable compensation for present or past  
1691 service or payments made in the ordinary course of business under a bona fide retirement plan  
1692 or other bona fide benefits program.

1693 (5) "Division" means the Division of Corporations and Commercial Code.

1694 (6) "Foreign limited liability partnership" means a foreign partnership whose partners  
1695 have limited liability for the debts, obligations, or other liabilities of the foreign partnership  
1696 under a provision similar to Subsection **48-1d-306(3)**.

1697 (7) "Foreign partnership" means an unincorporated entity formed under the law of a  
1698 jurisdiction other than this state which would be a partnership if formed under the law of this  
1699 state. The term includes a foreign limited liability partnership.

1700 (8) "Jurisdiction," used to refer to a political entity, means the United States, a state, a  
1701 foreign country, or a political subdivision of a foreign country.

- 1702 (9) "Jurisdiction of formation" means, with respect to an entity, the jurisdiction:  
1703 (a) under whose law the entity is formed; or  
1704 (b) in the case of a limited liability partnership or foreign limited liability partnership,  
1705 in which the partnership's statement of qualification is filed.
- 1706 (10) "Limited liability partnership," except in the phrase "foreign limited liability  
1707 partnership," means a partnership that has filed a statement of qualification under Section  
1708 48-1d-1101 and does not have a similar statement in effect in any other jurisdiction.
- 1709 (11) "Partner" means a person that:  
1710 (a) has become a partner in a partnership under Section 48-1d-401 or was a partner in a  
1711 partnership when the partnership became subject to this chapter under Section 48-1d-1405; and  
1712 (b) has not dissociated as a partner under Section 48-1d-701.
- 1713 (12) "Partnership" means an association of two or more persons to carry on as  
1714 co-owners a business for profit formed under this chapter or that becomes subject to this  
1715 chapter under Part 10, Merger, Interest Exchange, Conversion, and Domestication, or Section  
1716 48-1d-1405. The term includes a limited liability partnership.
- 1717 (13) "Partnership agreement" means the agreement, whether or not referred to as a  
1718 partnership agreement, and whether oral, implied, in a record, or in any combination thereof, of  
1719 all the partners of a partnership concerning the matters described in Subsection 48-1d-106(1).  
1720 The term includes the agreement as amended or restated.
- 1721 (14) "Partnership at will" means a partnership in which the partners have not agreed to  
1722 remain partners until the expiration of a definite term or the completion of a particular  
1723 undertaking.
- 1724 (15) "Person" means an individual, business corporation, nonprofit corporation,  
1725 partnership, limited partnership, limited liability company, limited cooperative association,  
1726 unincorporated nonprofit association, statutory trust, business trust, common-law business  
1727 trust, estate, trust, association, joint venture, public corporation, government or governmental  
1728 subdivision, agency, or instrumentality, or any other legal or commercial entity.
- 1729 (16) "Principal office" means the principal executive office of a partnership or a  
1730 foreign limited liability partnership, whether or not the office is located in this state.
- 1731 (17) "Professional services" means a personal service provided by:  
1732 (a) a public accountant holding a license under Title 58, Chapter 26a, Certified Public

- 1733 Accountant Licensing Act, or a subsequent law regulating the practice of public accounting;
- 1734 (b) an architect holding a license under Title 58, Chapter 3a, Architects Licensing Act,
- 1735 or a subsequent law regulating the practice of architecture;
- 1736 (c) an attorney granted the authority to practice law by the:
- 1737 (i) Utah Supreme Court; or
- 1738 (ii) one or more of the following that licenses or regulates the authority to practice law
- 1739 in a state or territory of the United States other than Utah:
- 1740 (A) a supreme court;
- 1741 (B) a court other than a supreme court;
- 1742 (C) an agency;
- 1743 (D) an instrumentality; or
- 1744 (E) a regulating board;
- 1745 (d) a chiropractor holding a license under Title 58, Chapter 73, Chiropractic Physician
- 1746 Practice Act, or a subsequent law regulating the practice of chiropractics;
- 1747 (e) a doctor of dentistry holding a license under Title 58, Chapter 69, Dentist and
- 1748 Dental Hygienist Practice Act, or a subsequent law regulating the practice of dentistry;
- 1749 (f) a professional engineer registered under Title 58, Chapter 22, Professional
- 1750 Engineers and Professional Land Surveyors Licensing Act, or a subsequent law regulating the
- 1751 practice of engineers or land surveyors;
- 1752 (g) a naturopath holding a license under Title 58, Chapter 71, Naturopathic Physician
- 1753 Practice Act, or a subsequent law regulating the practice of naturopathy;
- 1754 (h) a nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, or Chapter 44a,
- 1755 Nurse Midwife Practice Act, or a subsequent law regulating the practice of nursing;
- 1756 (i) an optometrist holding a license under Title 58, Chapter 16a, Utah Optometry
- 1757 Practice Act, or a subsequent law regulating the practice of optometry;
- 1758 (j) an osteopathic physician or surgeon holding a license under Title 58, Chapter 68,
- 1759 Utah Osteopathic Medical Practice Act, or a subsequent law regulating the practice of
- 1760 osteopathy;
- 1761 (k) a pharmacist holding a license under Title 58, Chapter 17b, Pharmacy Practice Act,
- 1762 or a subsequent law regulating the practice of pharmacy;
- 1763 (l) a physician, surgeon, or doctor of medicine holding a license under Title 58,

1764 Chapter 67, Utah Medical Practice Act, or a subsequent law regulating the practice of  
1765 medicine;

1766 (m) a physician assistant holding a license under Title 58, Chapter 70a, Utah Physician  
1767 Assistant Act, or a subsequent law regulating the practice as a physician assistant;

1768 [~~(m)~~] (n) a physical therapist holding a license under Title 58, Chapter 24b, Physical  
1769 Therapy Practice Act, or a subsequent law regulating the practice of physical therapy;

1770 [~~(n)~~] (o) a podiatric physician holding a license under Title 58, Chapter 5a, Podiatric  
1771 Physician Licensing Act, or a subsequent law regulating the practice of podiatry;

1772 [~~(o)~~] (p) a psychologist holding a license under Title 58, Chapter 61, Psychologist  
1773 Licensing Act, or a subsequent law regulating the practice of psychology;

1774 [~~(p)~~] (q) a principal broker, associate broker, or sales agent holding a license under  
1775 Title 61, Chapter 2f, Real Estate Licensing and Practices Act, or a subsequent law regulating  
1776 the sale, exchange, purchase, rental, or leasing of real estate;

1777 [~~(q)~~] (r) a clinical or certified social worker holding a license under Title 58, Chapter  
1778 60, Part 2, Social Worker Licensing Act, or a subsequent law regulating the practice of social  
1779 work;

1780 [~~(r)~~] (s) a mental health therapist holding a license under Title 58, Chapter 60, Mental  
1781 Health Professional Practice Act, or a subsequent law regulating the practice of mental health  
1782 therapy;

1783 [~~(s)~~] (t) a veterinarian holding a license under Title 58, Chapter 28, Veterinary Practice  
1784 Act, or a subsequent law regulating the practice of veterinary medicine; or

1785 [~~(t)~~] (u) an individual licensed, certified, or registered under Title 61, Chapter 2g, Real  
1786 Estate Appraiser Licensing and Certification Act, or a subsequent law regulating the practice of  
1787 appraising real estate.

1788 (18) "Property" means all property, whether real, personal, or mixed, or tangible or  
1789 intangible, or any right or interest therein.

1790 (19) "Record," used as a noun, means information that is inscribed on a tangible  
1791 medium or that is stored in an electronic or other medium and is retrievable in perceivable  
1792 form.

1793 (20) "Registered agent" means an agent of a limited liability partnership or foreign  
1794 limited liability partnership which is authorized to receive service of any process, notice, or

1795 demand required or permitted by law to be served on the partnership.

1796 (21) "Registered foreign limited liability partnership" means a foreign limited liability  
1797 partnership that is registered to do business in this state pursuant to a statement of registration  
1798 filed by the division.

1799 (22) "Sign" means, with present intent to authenticate or adopt a record:

1800 (a) to execute or adopt a tangible symbol; or

1801 (b) to attach to or logically associate with the record an electronic symbol, sound, or  
1802 process.

1803 (23) "State" means a state of the United States, the District of Columbia, Puerto Rico,  
1804 the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction  
1805 of the United States.

1806 (24) "Transfer" includes:

1807 (a) an assignment;

1808 (b) a conveyance;

1809 (c) a sale;

1810 (d) a lease;

1811 (e) an encumbrance, including a mortgage or security interest;

1812 (f) a gift; and

1813 (g) a transfer by operation of law.

1814 (25) "Transferable interest" means the right, as initially owned by a person in the  
1815 person's capacity as a partner, to receive distributions from a partnership in accordance with the  
1816 partnership agreement, whether or not the person remains a partner or continues to own any  
1817 part of the right. The term applies to any fraction of the interest, by whomever owned.

1818 (26) "Transferee" means a person to which all or part of a transferable interest has been  
1819 transferred, whether or not the transferor is a partner.

1820 (27) "Tribal partnership" means a partnership:

1821 (a) formed under the law of a tribe; and

1822 (b) that is at least 51% owned or controlled by the tribe under whose law the  
1823 partnership is formed.

1824 (28) "Tribe" means a tribe, band, nation, pueblo, or other organized group or  
1825 community of Indians, including an Alaska Native village, that is legally recognized as eligible

1826 for and is consistent with a special program, service, or entitlement provided by the United  
1827 States to Indians because of their status as Indians.

1828 Section 37. Section **48-3a-1101** is amended to read:

1829 **48-3a-1101. Definitions.**

1830 As used in this part:

1831 (1) "Professional services" means a personal service provided by:

1832 (a) a public accountant holding a license under Title 58, Chapter 26a, Certified Public  
1833 Accountant Licensing Act, or a subsequent law regulating the practice of public accounting;

1834 (b) an architect holding a license under Title 58, Chapter 3a, Architects Licensing Act,  
1835 or a subsequent law regulating the practice of architecture;

1836 (c) an attorney granted the authority to practice law by the:

1837 (i) Utah Supreme Court; or

1838 (ii) one or more of the following that licenses or regulates the authority to practice law  
1839 in a state or territory of the United States other than Utah:

1840 (A) a supreme court;

1841 (B) a court other than a supreme court;

1842 (C) an agency;

1843 (D) an instrumentality; or

1844 (E) a regulating board;

1845 (d) a chiropractor holding a license under Title 58, Chapter 73, Chiropractic Physician  
1846 Practice Act, or any subsequent law regulating the practice of chiropractics;

1847 (e) a doctor of dentistry holding a license under Title 58, Chapter 69, Dentist and  
1848 Dental Hygienist Practice Act, or a subsequent law regulating the practice of dentistry;

1849 (f) a professional engineer registered under Title 58, Chapter 22, Professional  
1850 Engineers and Professional Land Surveyors Licensing Act, or a subsequent law regulating the  
1851 practice of engineers and land surveyors;

1852 (g) a naturopath holding a license under Title 58, Chapter 71, Naturopathic Physician  
1853 Practice Act, or a subsequent law regulating the practice of naturopathy;

1854 (h) a nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, or Title 58,  
1855 Chapter 44a, Nurse Midwife Practice Act, or a subsequent law regulating the practice of  
1856 nursing;

- 1857 (i) an optometrist holding a license under Title 58, Chapter 16a, Utah Optometry  
1858 Practice Act, or a subsequent law regulating the practice of optometry;
- 1859 (j) an osteopathic physician or surgeon holding a license under Title 58, Chapter 68,  
1860 Utah Osteopathic Medical Practice Act, or a subsequent law regulating the practice of  
1861 osteopathy;
- 1862 (k) a pharmacist holding a license under Title 58, Chapter 17b, Pharmacy Practice Act,  
1863 or a subsequent law regulating the practice of pharmacy;
- 1864 (l) a physician, surgeon, or doctor of medicine holding a license under Title 58,  
1865 Chapter 67, Utah Medical Practice Act, or a subsequent law regulating the practice of  
1866 medicine;
- 1867 (m) a physician assistant holding a license under Title 58, Chapter 70a, Utah Physician  
1868 Assistant Act, or a subsequent law regulating the practice as a physician assistant;
- 1869 ~~(m)~~ (n) a physical therapist holding a license under Title 58, Chapter 24b, Physical  
1870 Therapy Practice Act, or a subsequent law regulating the practice of physical therapy;
- 1871 ~~(m)~~ (o) a podiatric physician holding a license under Title 58, Chapter 5a, Podiatric  
1872 Physician Licensing Act, or a subsequent law regulating the practice of podiatry;
- 1873 ~~(o)~~ (p) a psychologist holding a license under Title 58, Chapter 61, Psychologist  
1874 Licensing Act, or any subsequent law regulating the practice of psychology;
- 1875 ~~(p)~~ (q) a principal broker, associate broker, or sales agent holding a license under  
1876 Title 61, Chapter 2f, Real Estate Licensing and Practices Act, or a subsequent law regulating  
1877 the sale, exchange, purchase, rental, or leasing of real estate;
- 1878 ~~(q)~~ (r) a clinical or certified social worker holding a license under Title 58, Chapter  
1879 60, Part 2, Social Worker Licensing Act, or a subsequent law regulating the practice of social  
1880 work;
- 1881 ~~(r)~~ (s) a mental health therapist holding a license under Title 58, Chapter 60, Mental  
1882 Health Professional Practice Act, or a subsequent law regulating the practice of mental health  
1883 therapy;
- 1884 ~~(s)~~ (t) a veterinarian holding a license under Title 58, Chapter 28, Veterinary Practice  
1885 Act, or a subsequent law regulating the practice of veterinary medicine; or
- 1886 ~~(t)~~ (u) an individual licensed, certified, or registered under Title 61, Chapter 2g, Real  
1887 Estate Appraiser Licensing and Certification Act, or a subsequent law regulating the practice of

1888 appraising real estate.

1889 (2) "Regulating board" means the entity organized pursuant to state law that licenses  
1890 and regulates the practice of the profession that a limited liability company is organized to  
1891 provide.

1892 Section 38. Section **49-12-601** is amended to read:

1893 **49-12-601. Disability retirement -- Medical examinations -- Reemployment of**  
1894 **retirant with a disability -- Cancellation of benefit -- Service credit -- Retirant with a**  
1895 **disability engaging in gainful employment -- Reduction of allowance -- Refusal to submit**  
1896 **to medical examination.**

1897 (1) Only members of this system who became eligible for a disability retirement  
1898 allowance before January 1, 1983, are covered under this section.

1899 (2) (a) The board may, upon the recommendation of the administrator, require any  
1900 retirant who has been retired for disability and who has not attained the age of 60 years, to  
1901 undergo a medical examination by a physician, physician assistant, or surgeon, appointed by  
1902 the board, at the place of residence of the retirant or other place mutually agreed upon.

1903 (b) Upon the basis of the examination, the board shall determine whether the retirant  
1904 with a disability is still incapacitated, physically or mentally, for service under this chapter.

1905 (c) If the board determines that the retirant is not incapacitated, the retirement  
1906 allowance shall be cancelled and the retirant shall be reinstated immediately to a position of the  
1907 same class as that held by the retirant when retired for disability.

1908 (d) If any employing unit is unable to reinstate the retirant, the board shall continue the  
1909 disability retirement allowance of the retirant until employment is available.

1910 (3) (a) If a retirant with a disability under this system reenters covered service and is  
1911 eligible for membership in the retirement system, the retirement allowance shall be cancelled  
1912 and the retirant shall immediately become a member of the retirement system.

1913 (b) (i) The member's individual account shall be credited with an amount which is the  
1914 actuarial equivalent, at the time of reentry, based on a disabled life, of that portion of the  
1915 member's retirement allowance which was derived from the member's accumulated  
1916 contributions.

1917 (ii) The amount credited may not exceed the amount of accumulated contributions  
1918 standing at the time of retirement.

1919 (c) Each member shall receive credit for the service in the member's account at the  
1920 time of retirement.

1921 (4) If the retirement allowance of any retirant with a disability is cancelled for any  
1922 cause other than reentry into service, the retirant shall be paid the accumulated contributions  
1923 less the amounts prescribed by Subsection (6).

1924 (5) (a) If any member retired for disability engages in a gainful occupation prior to  
1925 attaining age 60, the administrator shall reduce the amount of the retirement allowance to an  
1926 amount which, when added to the compensation earned monthly by the retirant in that  
1927 occupation, may not exceed the amount of the final average monthly salary on the basis of  
1928 which the current service retirement allowance was determined.

1929 (b) If the earning capacity of the retirant is further altered, the administrator may  
1930 further alter the retirement allowance as provided in this Subsection (5).

1931 (c) In no event, however, may the retirement benefit be reduced below that portion of  
1932 the retirant's allowance derived from the retirant's own accumulated contributions.

1933 (d) When the retirant reaches age 60, the retirement allowance shall be made equal to  
1934 the amount upon which the retirant was originally retired and may not again be modified for  
1935 any cause.

1936 (6) (a) If any member who retired for disability under age 60, refuses to submit to a  
1937 medical examination, the retirement allowance may be discontinued until the retirant  
1938 withdraws that refusal.

1939 (b) If the refusal continues for one year the disability status may be cancelled and  
1940 membership terminated.

1941 (c) (i) The retirant's accumulated contribution account shall be the actuarial equivalent  
1942 on the date of the retirant's change of status, based on a disabled life, of that portion of the  
1943 disability retirement allowance which was derived from the retirant's accumulated  
1944 contributions.

1945 (ii) The amount credited may not exceed the amount of the retirant's accumulated  
1946 contributions at the time of disability retirement.

1947 Section 39. Section **49-16-102** is amended to read:

1948 **49-16-102. Definitions.**

1949 As used in this chapter:

1950 (1) (a) "Compensation" means the total amount of payments that are includable as  
1951 gross income which are received by a firefighter service employee as base income for the  
1952 regularly scheduled work period. The participating employer shall establish the regularly  
1953 scheduled work period. Base income shall be determined prior to the deduction of member  
1954 contributions or any amounts the firefighter service employee authorizes to be deducted for  
1955 salary deferral or other benefits authorized by federal law.

1956 (b) "Compensation" includes performance-based bonuses and cost-of-living  
1957 adjustments.

1958 (c) "Compensation" does not include:

1959 (i) overtime;

1960 (ii) sick pay incentives;

1961 (iii) retirement pay incentives;

1962 (iv) remuneration paid in kind such as a residence, use of equipment, uniforms, travel,  
1963 or similar payments;

1964 (v) a lump-sum payment or special payments covering accumulated leave; and

1965 (vi) all contributions made by a participating employer under this system or under any  
1966 other employee benefit system or plan maintained by a participating employer for the benefit of  
1967 a member or participant.

1968 (d) "Compensation" for purposes of this chapter may not exceed the amount allowed  
1969 under Section 401(a)(17), Internal Revenue Code.

1970 (2) (a) "Disability" means the complete inability, due to objective medical impairment,  
1971 whether physical or mental, to perform firefighter service.

1972 (b) "Disability" does not include the inability to meet an employer's required standards  
1973 or tests relating to fitness, physical ability, or agility that is not a result of a disability as defined  
1974 under Subsection (2)(a).

1975 (3) "Final average salary" means the amount calculated by averaging the highest three  
1976 years of annual compensation preceding retirement subject to Subsections (3)(a), (b), and (c).

1977 (a) Except as provided in Subsection (3)(b), the percentage increase in annual  
1978 compensation in any one of the years used may not exceed the previous year's compensation by  
1979 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power  
1980 of the dollar during the previous year, as measured by a United States Bureau of Labor

- 1981 Statistics Consumer Price Index average as determined by the board.
- 1982 (b) In cases where the participating employer provides acceptable documentation to the  
1983 office the limitation in Subsection (3)(a) may be exceeded if:
- 1984 (i) the member has transferred from another agency; or  
1985 (ii) the member has been promoted to a new position.
- 1986 (c) The annual compensation used to calculate final average salary shall be based on:  
1987 (i) a calendar year for a member employed by a participating employer that is not an  
1988 educational institution; or  
1989 (ii) a contract year for a member employed by an educational institution.
- 1990 (4) (a) "Firefighter service" means employment normally requiring an average of 2,080  
1991 hours of regularly scheduled employment per year rendered by a member who is:
- 1992 (i) a firefighter service employee trained in firefighter techniques and assigned to a  
1993 position of hazardous duty with a regularly constituted fire department; or  
1994 (ii) the state fire marshal appointed under Section [53-7-103](#) or a deputy state fire  
1995 marshal.
- 1996 (b) "Firefighter service" does not include secretarial staff or other similar employees.
- 1997 (5) "Firefighter service employee" means an employee of a participating employer who  
1998 provides firefighter service under this chapter. An employee of a regularly constituted fire  
1999 department who does not perform firefighter service is not a firefighter service employee.
- 2000 (6) (a) "Line-of-duty death or disability" means a death or disability resulting from:  
2001 (i) external force, violence, or disease directly resulting from firefighter service; or  
2002 (ii) strenuous activity, including a heart attack or stroke, that occurs during strenuous  
2003 training or another strenuous activity required as an act of duty as a firefighter service  
2004 employee.
- 2005 (b) "Line-of-duty death or disability" does not include a death or disability that:  
2006 (i) occurs during an activity that is required as an act of duty as a firefighter service  
2007 employee if the activity is not a strenuous activity, including an activity that is clerical,  
2008 administrative, or of a nonmanual nature;  
2009 (ii) occurs during the commission of a crime committed by the employee;  
2010 (iii) occurs when the employee's intoxication or use of alcohol or drugs, whether  
2011 prescribed or nonprescribed, contributes to the employee's death or disability; or

2012 (iv) occurs in a manner other than as described in Subsection (6)(a).

2013 (c) "Line-of-duty death or disability" includes the death or disability of a paid  
2014 firefighter resulting from heart disease, lung disease, or a respiratory tract condition if the paid  
2015 firefighter has five years of firefighter service credit.

2016 (7) "Objective medical impairment" means an impairment resulting from an injury or  
2017 illness which is diagnosed by a physician or physician assistant and which is based on accepted  
2018 objective medical tests or findings rather than subjective complaints.

2019 (8) "Participating employer" means an employer which meets the participation  
2020 requirements of Section [49-16-201](#).

2021 (9) "Regularly constituted fire department" means a fire department that employs a fire  
2022 chief who performs firefighter service for at least 2,080 hours of regularly scheduled paid  
2023 employment per year.

2024 (10) (a) "Strenuous activity" means engagement involving a difficult, stressful, or  
2025 vigorous fire suppression, rescue, hazardous material response, emergency medical service,  
2026 physical law enforcement, prison security, disaster relief, or other emergency response activity.

2027 (b) "Strenuous activity" includes participating in a participating employer sanctioned  
2028 and funded training exercise that involves difficult, stressful, or vigorous physical activity.

2029 (11) "System" means the Firefighters' Retirement System created under this chapter.

2030 (12) (a) "Volunteer firefighter" means any individual that is not regularly employed as  
2031 a firefighter service employee, but who:

2032 (i) has been trained in firefighter techniques and skills;

2033 (ii) continues to receive regular firefighter training; and

2034 (iii) is on the rolls of a legally organized volunteer fire department which provides  
2035 ongoing training and serves a political subdivision of the state.

2036 (b) An individual that volunteers assistance but does not meet the requirements of  
2037 Subsection (12)(a) is not a volunteer firefighter for purposes of this chapter.

2038 (13) "Years of service credit" means the number of periods, each to consist of 12 full  
2039 months as determined by the board, whether consecutive or not, during which a firefighter  
2040 service employee was employed by a participating employer or received full-time pay while on  
2041 sick leave, including any time the firefighter service employee was absent in the service of the  
2042 United States on military duty.

2043 Section 40. Section **49-16-602** is amended to read:

2044 **49-16-602. Disability retirement -- Disability allowance eligibility -- Conversion to**  
2045 **service retirement -- Examinations -- Reemployment.**

2046 (1) A member of this system who applies and is qualified for disability retirement shall  
2047 receive a disability retirement benefit until the earlier of:

2048 (a) the date the member of this system no longer has a disability;

2049 (b) the date the member of this system has accumulated 20 years of firefighter service  
2050 credit, including years earned while the member of this system had a disability; or

2051 (c) the date the member of this system has received disability retirement benefits for  
2052 the following time periods:

2053 (i) if the member is under age 60 on the date of disability, the disability retirement  
2054 benefit is payable until age 65;

2055 (ii) if the member is 60 or 61 years of age on the date of disability, the disability  
2056 retirement benefit is payable for five years;

2057 (iii) if the member is 62 or 63 years of age on the date of disability, the disability  
2058 retirement benefit is payable for four years;

2059 (iv) if the member is 64 or 65 years of age on the date of disability, the disability  
2060 retirement benefit is payable for three years;

2061 (v) if the member is 66, 67, or 68 years of age on the date of disability, the disability  
2062 retirement benefit is payable for two years; and

2063 (vi) if the member is 69 years of age or older on the date of disability, the disability  
2064 retirement benefit is payable for one year.

2065 (2) (a) (i) The retiree with a disability shall receive service credit in this system during  
2066 the period of disability.

2067 (ii) If the retiree with a disability is employed by a participating employer during the  
2068 period of disability, the retiree with a disability may not receive service credit for that  
2069 employment.

2070 (b) The disability retirement shall be converted to a service retirement at the time the  
2071 disability retirement benefits terminate.

2072 (3) The office shall approve or disapprove applications for disability retirement  
2073 benefits based upon:

- 2074 (a) the evaluation and recommendations of one or more treating physicians or  
2075 physician assistants along with medical records relating to the condition;
- 2076 (b) the evaluation and recommendations of one or more independent physicians or  
2077 physician assistants selected by the office; and
- 2078 (c) receipt of documentation by the office from the participating employer that the  
2079 member is mentally or physically unable to perform firefighter service.
- 2080 (4) (a) A retiree with a disability who receives benefits under this section shall, upon  
2081 request of the executive director, submit to a medical examination by one or more physicians  
2082 or physician assistants as directed by the office.
- 2083 (b) If, after an examination, the examiners report that the retiree with a disability is  
2084 physically and mentally able and capable of resuming firefighter service employment, the  
2085 retiree with a disability shall be reinstated by the participating employer for which the retiree  
2086 with a disability last worked at the former classification and rank of the retiree with a disability,  
2087 and the disability retirement benefit shall terminate.
- 2088 (c) A retiree with a disability may not be required to submit to an examination under  
2089 this Subsection (4) more than once every year.
- 2090 (d) A retiree with a disability who returns to firefighter service employment with a  
2091 participating employer in this system shall immediately begin accruing service credit that shall  
2092 be added to that service credit that has been previously accrued, including service credit while  
2093 disabled.
- 2094 (5) A retiree with a disability is not subject to medical examinations after reaching age  
2095 55.
- 2096 (6) Refusal or neglect of a member to submit to an examination as requested by the  
2097 office either before or after a decision regarding disability benefits has been made is sufficient  
2098 cause for denial, suspension, or discontinuance of benefits and if the refusal or neglect  
2099 continues for one year, the rights of the member or retiree with a disability to disability  
2100 retirement benefits may be revoked by the office.
- 2101 (7) (a) A retiree with a disability who receives benefits under this part shall file a sworn  
2102 statement with the office on or before March 15 of each year for the first five years a retiree  
2103 with a disability receives benefits.
- 2104 (b) The sworn statement shall indicate whether or not the retiree with a disability

2105 engaged in any employment during the preceding year and, if so, the amount of earnings  
2106 received during the calendar year.

2107 (c) If the total amount received in one year by a retiree with a disability for disability  
2108 retirement benefits and gross earnings from other employment exceeds 125% of the final  
2109 average salary of the retiree with a disability, the office shall offset the disability retirement  
2110 benefit paid the following year by the amount in excess of 125% of the final average salary of  
2111 the retiree with a disability.

2112 (d) (i) If a retiree with a disability refuses or neglects to file a sworn statement as  
2113 required under this Subsection (7), the executive director may suspend payment of any and all  
2114 benefits pending receipt of the statement.

2115 (ii) Upon filing the statement, the payments of the retiree with a disability shall be  
2116 resumed.

2117 (8) The disability retirement benefit shall be improved by the annual cost-of-living  
2118 increase factor applied to retirees of the system that covered the firefighter service employee at  
2119 the time of disability.

2120 (9) A line of duty disability allowance paid on or after January 1, 2002, under Section  
2121 [49-16-601](#) is exempt from taxation to the extent permitted under federal law.

2122 (10) (a) An active member of this system with five or more years of firefighter service  
2123 credit shall be eligible for a line-of-duty death or disability benefit resulting from heart disease,  
2124 lung disease, or respiratory tract disease.

2125 (b) An active member of this system who receives a line-of-duty disability benefit for  
2126 more than six months due to violence or illness other than heart disease, lung disease, or  
2127 respiratory tract disease, and then returns to paid firefighter service, is not eligible for a  
2128 line-of-duty death or disability benefit due to those diseases for two years after the member  
2129 returned to paid firefighter service unless clear and convincing evidence is presented that the  
2130 heart, lung, or respiratory tract disease was directly a result of firefighter service.

2131 (11) Disability retirement benefits shall be considered an allowance for purposes of  
2132 Section [49-11-701](#).

2133 Section 41. Section [49-21-402](#) is amended to read:

2134 **49-21-402. Reduction or reimbursement of benefit -- Circumstances --**  
2135 **Application for other benefits required.**

- 2136 (1) A monthly disability benefit may be terminated unless:
- 2137 (a) the eligible employee is under the ongoing care and treatment of a physician or
- 2138 physician assistant other than the eligible employee; and
- 2139 (b) the eligible employee provides the information and documentation requested by the
- 2140 office.
- 2141 (2) (a) The monthly disability benefit shall be reduced or reimbursed by any amount
- 2142 received by, or payable to, the eligible employee for the same injury or illness that is the basis
- 2143 for the monthly disability benefit from the following sources:
- 2144 (i) workers' compensation indemnity benefits, regardless of whether the amount is
- 2145 received as an ongoing monthly benefit, as a lump sum, or in a settlement with a workers'
- 2146 compensation indemnity carrier;
- 2147 (ii) any money received by judgment, legal action, or settlement from a third party
- 2148 liable to the employee for the monthly disability benefit;
- 2149 (iii) automobile no-fault, medical payments, or similar insurance payments;
- 2150 (iv) any money received by a judgment, settlement, or other payment as a result of a
- 2151 claim against an employer; or
- 2152 (v) annual leave or similar lump-sum payments.
- 2153 (b) The monthly disability benefit shall be reduced or reimbursed by any amount
- 2154 received by, or payable to, the eligible employee for the same period of time during which the
- 2155 eligible employee is entitled to receive a monthly disability benefit from the following sources:
- 2156 (i) social security disability benefits, including all benefits received by the eligible
- 2157 employee, the eligible employee's spouse, and the eligible employee's children as determined
- 2158 by the Social Security Administration;
- 2159 (ii) unemployment compensation benefits;
- 2160 (iii) sick leave benefits; or
- 2161 (iv) compensation received for employment, including self-employment, except for
- 2162 eligible amounts from approved rehabilitative employment in accordance with Section
- 2163 [49-21-406](#).
- 2164 (3) The monthly disability benefit shall be reduced by any amount in excess of
- 2165 one-third of the eligible employee's regular monthly salary received by, or payable to, the
- 2166 eligible employee from the following sources for the same period of time during which the

2167 eligible employee is entitled to receive a monthly disability benefit:

2168 (a) any retirement payment earned through or provided by public or private  
2169 employment; and

2170 (b) any disability benefit, other than social security or workers' compensation  
2171 indemnity benefits, resulting from the disability for which benefits are being received under  
2172 this chapter.

2173 (4) After the date of disability, cost-of-living increases to any of the benefits listed in  
2174 Subsection (2) or (3) may not be considered in calculating a reduction to the monthly disability  
2175 benefit.

2176 (5) Any amounts payable to the eligible employee from one or more of the sources  
2177 under Subsection (2) are considered as amounts received whether or not the amounts were  
2178 actually received by the eligible employee.

2179 (6) (a) An eligible employee shall first apply for all disability benefits from  
2180 governmental entities under Subsection (2) to which the eligible employee is or may be  
2181 entitled, and provide to the office evidence of the applications.

2182 (b) If the eligible employee fails to make application under this Subsection (6), the  
2183 monthly disability benefit shall be suspended.

2184 (7) During a period of total disability, an eligible employee has an affirmative duty to  
2185 keep the program informed regarding:

2186 (a) the award or receipt of an amount from a source that could result in the monthly  
2187 disability benefit being reduced or reimbursed under this section within 10 days of the award or  
2188 receipt of the amount; and

2189 (b) any employment, including self-employment, of the eligible employee and the  
2190 compensation for that employment within 10 days of beginning the employment or a material  
2191 change in the compensation from that employment.

2192 (8) The program shall use commercially reasonable means to collect any amounts of  
2193 overpayments and reimbursements.

2194 (9) (a) If the program is unable to reduce or obtain reimbursement for the required  
2195 amount from the monthly disability benefit for any reason, the employee will have received an  
2196 overpayment of monthly disability benefits.

2197 (b) If an eligible employee receives an overpayment of monthly disability benefits, the

2198 eligible employee shall repay to the office the amount of the overpayment, plus interest as  
2199 determined by the program, within 30 days from the date the overpayment is received by:

2200 (i) the eligible employee; or

2201 (ii) a third party related to the eligible employee.

2202 (c) The executive director may waive the interest on an overpayment of monthly  
2203 disability benefits under Subsection (9)(b) if good cause is shown for the delay in repayment of  
2204 the overpayment of monthly disability benefits.

2205 Section 42. Section **49-21-406** is amended to read:

2206 **49-21-406. Rehabilitative employment -- Interview by disability specialist --**  
2207 **Maintaining eligibility -- Additional treatment and care.**

2208 (1) (a) If an eligible employee, during a period of total disability for which the monthly  
2209 disability benefit is payable, engages in approved rehabilitative employment, the monthly  
2210 disability benefit otherwise payable shall be reduced:

2211 (i) by an amount equal to 50% of the income to which the eligible employee is entitled  
2212 for the employment during the month; and

2213 (ii) so that the combined amount received from the rehabilitative employment and the  
2214 monthly disability payment does not exceed 100% of the eligible employee's monthly salary  
2215 prior to the employee's disability.

2216 (b) This rehabilitative benefit is payable for up to two years or to the end of the  
2217 maximum benefit period, whichever occurs first.

2218 (2) (a) Each eligible employee receiving a monthly disability benefit shall be  
2219 interviewed by the office.

2220 (b) The office may refer the eligible employee to a rehabilitative or vocational  
2221 specialist for a review of the eligible employee's condition and a written rehabilitation plan and  
2222 return to work assistance.

2223 (3) If an eligible employee receiving a monthly disability benefit fails to participate in  
2224 an office-approved rehabilitation program within the limitations set forth by a physician or  
2225 physician assistant, the monthly disability benefit may be suspended or terminated.

2226 (4) The office may, as a condition of paying a monthly disability benefit, require that  
2227 the eligible employee receive medical care and treatment if that treatment is reasonable or usual  
2228 according to current medical practices.

2229 Section 43. Section **53-2a-302** is amended to read:

2230 **53-2a-302. Definitions.**

2231 As used in this part:

2232 (1) "Emergency responder":

2233 (a) means a person in the public or private sector:

2234 (i) who has special skills, qualification, training, knowledge, or experience, whether or  
2235 not possessing a license, certificate, permit, or other official recognition for the skills,  
2236 qualification, training, knowledge, or experience, that would benefit a participating political  
2237 subdivision in responding to a locally declared emergency or in an authorized drill or exercise;  
2238 and

2239 (ii) whom a participating political subdivision requests or authorizes to assist in  
2240 responding to a locally declared emergency or in an authorized drill or exercise; and

2241 (b) includes:

2242 (i) a law enforcement officer;

2243 (ii) a firefighter;

2244 (iii) an emergency medical services worker;

2245 (iv) a physician, physician assistant, nurse, or other public health worker;

2246 (v) an emergency management official;

2247 (vi) a public works worker;

2248 (vii) a building inspector;

2249 (viii) an architect, engineer, or other design professional; or

2250 (ix) a person with specialized equipment operations skills or training or with any other  
2251 skills needed to provide aid in a declared emergency.

2252 (2) "Participating political subdivision" means each county, municipality, public safety  
2253 district, and public safety interlocal entity that has not adopted a resolution under Section  
2254 **53-2a-306** withdrawing itself from the statewide mutual aid system.

2255 (3) "Public safety district" means a local district under Title 17B, Limited Purpose  
2256 Local Government Entities - Local Districts, or special service district under Title 17D,  
2257 Chapter 1, Special Service District Act, that provides public safety service.

2258 (4) "Public safety interlocal entity" means an interlocal entity under Title 11, Chapter  
2259 13, Interlocal Cooperation Act, that provides public safety service.

2260 (5) "Public safety service" means a service provided to the public to protect life and  
2261 property and includes fire protection, police protection, emergency medical service, and  
2262 hazardous material response service.

2263 (6) "Requesting political subdivision" means a participating political subdivision that  
2264 requests emergency assistance under Section [53-2a-207](#) from one or more other participating  
2265 political subdivisions.

2266 (7) "Responding political subdivision" means a participating political subdivision that  
2267 responds to a request under Section [53-2a-307](#) from a requesting political subdivision.

2268 (8) "State" means the state of Utah.

2269 (9) "Statewide mutual aid system" or "system" means the aggregate of all participating  
2270 political subdivisions and the state.

2271 Section 44. Section **53-3-302** is amended to read:

2272 **53-3-302. Definitions.**

2273 As used in this part:

2274 (1) "Board" means the Driver License Medical Advisory Board created in Section  
2275 [53-3-303](#).

2276 (2) "Health care professional" means a physician ~~[or]~~, surgeon, or physician assistant  
2277 licensed to practice [~~medicine~~] in the state, or when recommended by the Medical Advisory  
2278 Board, may include other health care professionals licensed to conduct physical examinations  
2279 in this state.

2280 (3) (a) "Impaired person" means a person who has a mental, emotional, or nonstable  
2281 physical disability or disease that may impair the person's ability to exercise reasonable and  
2282 ordinary control at all times over a motor vehicle while driving on the highways.

2283 (b) "Impaired person" does not include a person having a nonprogressive or stable  
2284 physical impairment that is objectively observable and that may be evaluated by a functional  
2285 driving examination.

2286 Section 45. Section **53-10-405** is amended to read:

2287 **53-10-405. DNA specimen analysis -- Saliva sample to be obtained by agency --**  
2288 **Blood sample to be drawn by professional.**

2289 (1) (a) A saliva sample shall be obtained by the responsible agency under Subsection  
2290 [53-10-404](#)(5).

2291 (b) The sample shall be obtained in a professionally acceptable manner, using  
2292 appropriate procedures to ensure the sample is adequate for DNA analysis.

2293 (2) (a) A blood sample shall be drawn in a medically acceptable manner by any of the  
2294 following:

2295 (i) a physician;

2296 (ii) a physician assistant;

2297 [~~(ii)~~] (iii) a registered nurse;

2298 [~~(iii)~~] (iv) a licensed practical nurse;

2299 [~~(iv)~~] (v) a paramedic;

2300 [~~(v)~~] (vi) as provided in Subsection (2)(b), emergency medical service personnel other  
2301 than paramedics; or

2302 [~~(vi)~~] (vii) a person with a valid permit issued by the Department of Health under  
2303 Section [26-1-30](#).

2304 (b) The Department of Health may designate by rule, in accordance with Title 63G,  
2305 Chapter 3, Utah Administrative Rulemaking Act, which emergency medical service personnel,  
2306 as defined in Section [26-8a-102](#), are authorized to draw blood under Subsection [~~(2)(a)(v)~~]  
2307 (2)(a)(vi), based on the type of license under Section [26-8a-302](#).

2308 (c) A person authorized by this section to draw a blood sample may not be held civilly  
2309 liable for drawing a sample in a medically acceptable manner.

2310 (3) A test result or opinion based upon a test result regarding a DNA specimen may not  
2311 be rendered inadmissible as evidence solely because of deviations from procedures adopted by  
2312 the department that do not affect the reliability of the opinion or test result.

2313 (4) A DNA specimen is not required to be obtained if:

2314 (a) the court or the responsible agency confirms with the department that the  
2315 department has previously received an adequate DNA specimen obtained from the person in  
2316 accordance with this section; or

2317 (b) the court determines that obtaining a DNA specimen would create a substantial and  
2318 unreasonable risk to the health of the person.

2319 Section 46. Section **53G-6-204** is amended to read:

2320 **53G-6-204. Minors exempt from school attendance.**

2321 (1) (a) A local school board or charter school governing board may excuse a school-age

2322 minor from attendance for any of the following reasons:

2323 (i) a school-age minor over age 16 may receive a partial release from school to enter  
2324 employment, or attend a trade school, if the school-age minor has completed the eighth grade;  
2325 or

2326 (ii) on an annual basis, a school-age minor may receive a full release from attending a  
2327 public, regularly established private, or part-time school or class if:

2328 (A) the school-age minor has already completed the work required for graduation from  
2329 high school, or has demonstrated mastery of required skills and competencies in accordance  
2330 with Subsection 53F-2-501(1);

2331 (B) the school-age minor is in a physical or mental condition, certified by a competent  
2332 physician or physician assistant if required by the local school board or charter school  
2333 governing board, which renders attendance inexpedient and impracticable;

2334 (C) proper influences and adequate opportunities for education are provided in  
2335 connection with the school-age minor's employment; or

2336 (D) the district superintendent or charter school governing board has determined that a  
2337 school-age minor over the age of 16 is unable to profit from attendance at school because of  
2338 inability or a continuing negative attitude toward school regulations and discipline.

2339 (b) A school-age minor receiving a partial release from school under Subsection  
2340 (1)(a)(i) is required to attend:

2341 (i) school part time as prescribed by the local school board or charter school governing  
2342 board; or

2343 (ii) a home school part time.

2344 (c) In each case, evidence of reasons for granting an exemption under Subsection (1)  
2345 must be sufficient to satisfy the local school board or charter school governing board.

2346 (d) A local school board or charter school governing board that excuses a school-age  
2347 minor from attendance as provided by this Subsection (1) shall issue a certificate that the minor  
2348 is excused from attendance during the time specified on the certificate.

2349 (2) (a) A local school board shall excuse a school-age minor from attendance, if the  
2350 school-age minor's parent files a signed and notarized affidavit with the school-age minor's  
2351 school district of residence, as defined in Section 53G-6-302, that:

2352 (i) the school-age minor will attend a home school; and

2353 (ii) the parent assumes sole responsibility for the education of the school-age minor,  
2354 except to the extent the school-age minor is dual enrolled in a public school as provided in  
2355 Section 53G-6-702.

2356 (b) A signed and notarized affidavit filed in accordance with Subsection (2)(a) shall  
2357 remain in effect as long as:

2358 (i) the school-age minor attends a home school; and

2359 (ii) the school district where the affidavit was filed remains the school-age minor's  
2360 district of residence.

2361 (c) A parent of a school-age minor who attends a home school is solely responsible for:

2362 (i) the selection of instructional materials and textbooks;

2363 (ii) the time, place, and method of instruction; and

2364 (iii) the evaluation of the home school instruction.

2365 (d) A local school board may not:

2366 (i) require a parent of a school-age minor who attends a home school to maintain  
2367 records of instruction or attendance;

2368 (ii) require credentials for individuals providing home school instruction;

2369 (iii) inspect home school facilities; or

2370 (iv) require standardized or other testing of home school students.

2371 (e) Upon the request of a parent, a local school board shall identify the knowledge,  
2372 skills, and competencies a student is recommended to attain by grade level and subject area to  
2373 assist the parent in achieving college and career readiness through home schooling.

2374 (f) A local school board that excuses a school-age minor from attendance as provided  
2375 by this Subsection (2) shall annually issue a certificate stating that the school-age minor is  
2376 excused from attendance for the specified school year.

2377 (g) A local school board shall issue a certificate excusing a school-age minor from  
2378 attendance:

2379 (i) within 30 days after receipt of a signed and notarized affidavit filed by the  
2380 school-age minor's parent pursuant to Subsection (2); and

2381 (ii) on or before August 1 each year thereafter unless:

2382 (A) the school-age minor enrolls in a school within the school district;

2383 (B) the school-age minor's parent or guardian notifies the school district that the

2384 school-age minor no longer attends a home school; or

2385 (C) the school-age minor's parent or guardian notifies the school district that the  
2386 school-age minor's school district of residence has changed.

2387 (3) A parent who files a signed and notarized affidavit as provided in Subsection (2)(a)  
2388 is exempt from the application of Subsections 53G-6-202(2), (5), and (6).

2389 (4) Nothing in this section may be construed to prohibit or discourage voluntary  
2390 cooperation, resource sharing, or testing opportunities between a school or school district and a  
2391 parent or guardian of a minor attending a home school.

2392 Section 47. Section 53G-9-203 is amended to read:

2393 **53G-9-203. Definitions -- School personnel -- Medical recommendations --**

2394 **Exceptions -- Penalties.**

2395 (1) As used in this section:

2396 (a) "Health care professional" means a physician, physician assistant, nurse, dentist, or  
2397 mental health therapist.

2398 (b) "School personnel" means a school district or charter school employee, including a  
2399 licensed, part-time, contract, or nonlicensed employee.

2400 (2) School personnel may:

2401 (a) provide information and observations to a student's parent or guardian about that  
2402 student, including observations and concerns in the following areas:

2403 (i) progress;

2404 (ii) health and wellness;

2405 (iii) social interactions;

2406 (iv) behavior; or

2407 (v) topics consistent with Subsection 53E-9-203(6);

2408 (b) communicate information and observations between school personnel regarding a  
2409 child;

2410 (c) refer students to other appropriate school personnel and agents, consistent with  
2411 local school board or charter school policy, including referrals and communication with a  
2412 school counselor or other mental health professionals working within the school system;

2413 (d) consult or use appropriate health care professionals in the event of an emergency  
2414 while the student is at school, consistent with the student emergency information provided at

2415 student enrollment;

2416 (e) exercise their authority relating to the placement within the school or readmission  
2417 of a child who may be or has been suspended or expelled for a violation of Section [53G-8-205](#);  
2418 and

2419 (f) complete a behavioral health evaluation form if requested by a student's parent or  
2420 guardian to provide information to a licensed physician or physician assistant.

2421 (3) School personnel shall:

2422 (a) report suspected child abuse consistent with Section [62A-4a-403](#);

2423 (b) comply with applicable state and local health department laws, rules, and policies;  
2424 and

2425 (c) conduct evaluations and assessments consistent with the Individuals with  
2426 Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq., and its subsequent amendments.

2427 (4) Except as provided in Subsection (2), Subsection (6), and Section [53G-9-604](#),  
2428 school personnel may not:

2429 (a) recommend to a parent or guardian that a child take or continue to take a  
2430 psychotropic medication;

2431 (b) require that a student take or continue to take a psychotropic medication as a  
2432 condition for attending school;

2433 (c) recommend that a parent or guardian seek or use a type of psychiatric or  
2434 psychological treatment for a child;

2435 (d) conduct a psychiatric or behavioral health evaluation or mental health screening,  
2436 test, evaluation, or assessment of a child, except where this Subsection (4)(d) conflicts with the  
2437 Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq., and its subsequent  
2438 amendments; or

2439 (e) make a child abuse or neglect report to authorities, including the Division of Child  
2440 and Family Services, solely or primarily on the basis that a parent or guardian refuses to  
2441 consent to:

2442 (i) a psychiatric, psychological, or behavioral treatment for a child, including the  
2443 administration of a psychotropic medication to a child; or

2444 (ii) a psychiatric or behavioral health evaluation of a child.

2445 (5) Notwithstanding Subsection (4)(e), school personnel may make a report that would

2446 otherwise be prohibited under Subsection (4)(e) if failure to take the action described under  
2447 Subsection (4)(e) would present a serious, imminent risk to the child's safety or the safety of  
2448 others.

2449 (6) Notwithstanding Subsection (4), a school counselor or other mental health  
2450 professional acting in accordance with Title 58, Chapter 60, Mental Health Professional  
2451 Practice Act, or licensed through the State Board of Education, working within the school  
2452 system may:

2453 (a) recommend, but not require, a psychiatric or behavioral health evaluation of a child;

2454 (b) recommend, but not require, psychiatric, psychological, or behavioral treatment for  
2455 a child;

2456 (c) conduct a psychiatric or behavioral health evaluation or mental health screening,  
2457 test, evaluation, or assessment of a child in accordance with Section 53E-9-203; and

2458 (d) provide to a parent or guardian, upon the specific request of the parent or guardian,  
2459 a list of three or more health care professionals or providers, including licensed physicians,  
2460 physician assistants, psychologists, or other health specialists.

2461 (7) Local school boards or charter schools shall adopt a policy:

2462 (a) providing for training of appropriate school personnel on the provisions of this  
2463 section; and

2464 (b) indicating that an intentional violation of this section is cause for disciplinary action  
2465 consistent with local school board or charter school policy and under Section 53G-11-513.

2466 (8) Nothing in this section shall be interpreted as discouraging general communication  
2467 not prohibited by this section between school personnel and a student's parent or guardian.

2468 Section 48. Section 53G-9-208 is amended to read:

2469 **53G-9-208. Sunscreen -- Possession -- Administration -- Immunity.**

2470 (1) As used in this section, "sunscreen" means a compound topically applied to prevent  
2471 sunburn.

2472 (2) A public school shall permit a student, without a parent [~~or physician's~~], physician,  
2473 or physician assistant's authorization, to possess or self-apply sunscreen that is regulated by the  
2474 Food and Drug Administration.

2475 (3) If a student is unable to self-apply sunscreen, a volunteer school employee may  
2476 apply the sunscreen on the student if the student's parent or legal guardian provides written

2477 consent for the assistance.

2478 (4) A volunteer school employee who applies sunscreen on a student in compliance  
2479 with Subsection (3) and the volunteer school employee's employer are not liable for:

2480 (a) an adverse reaction suffered by the student as a result of having the sunscreen  
2481 applied; or

2482 (b) discontinuing the application of the sunscreen at any time.

2483 Section 49. Section **53G-9-504** is amended to read:

2484 **53G-9-504. Administration of glucagon -- Training of volunteer school personnel**  
2485 **-- Authority to use glucagon -- Immunity from liability.**

2486 (1) As used in this section, "glucagon authorization" means a signed statement from a  
2487 parent or guardian of a student with diabetes:

2488 (a) certifying that glucagon has been prescribed for the student;

2489 (b) requesting that the student's public school identify and train school personnel who  
2490 volunteer to be trained in the administration of glucagon in accordance with this section; and

2491 (c) authorizing the administration of glucagon in an emergency to the student in  
2492 accordance with this section.

2493 (2) (a) A public school shall, within a reasonable time after receiving a glucagon  
2494 authorization, train two or more school personnel who volunteer to be trained in the  
2495 administration of glucagon, with training provided by the school nurse or another qualified,  
2496 licensed medical professional.

2497 (b) A public school shall allow all willing school personnel to receive training in the  
2498 administration of glucagon, and the school shall assist and may not obstruct the identification  
2499 or training of volunteers under this Subsection (2).

2500 (c) The Utah Department of Health, in cooperation with the state superintendent of  
2501 public instruction, shall design a glucagon authorization form to be used by public schools in  
2502 accordance with this section.

2503 (3) (a) Training in the administration of glucagon shall include:

2504 (i) techniques for recognizing the symptoms that warrant the administration of  
2505 glucagon;

2506 (ii) standards and procedures for the storage and use of glucagon;

2507 (iii) other emergency procedures, including calling the emergency 911 number and

2508 contacting, if possible, the student's parent or guardian; and

2509 (iv) written materials covering the information required under this Subsection (3).

2510 (b) A school shall retain for reference the written materials prepared in accordance with  
2511 Subsection (3)(a)(iv).

2512 (4) A public school shall permit a student or school personnel to possess or store  
2513 prescribed glucagon so that it will be available for administration in an emergency in  
2514 accordance with this section.

2515 (5) (a) A person who has received training in accordance with this section may  
2516 administer glucagon at a school or school activity to a student with a glucagon authorization if:

2517 (i) the student is exhibiting the symptoms that warrant the administration of glucagon;  
2518 and

2519 (ii) a licensed health care professional is not immediately available.

2520 (b) A person who administers glucagon in accordance with Subsection (5)(a) shall  
2521 direct a responsible person to call 911 and take other appropriate actions in accordance with the  
2522 training materials retained under Subsection (3)(b).

2523 (6) School personnel who provide or receive training under this section and act in good  
2524 faith are not liable in any civil or criminal action for any act taken or not taken under the  
2525 authority of this section with respect to the administration of glucagon.

2526 (7) Section 53G-9-502 does not apply to the administration of glucagon in accordance  
2527 with this section.

2528 (8) Section 53G-8-205 does not apply to the possession and administration of glucagon  
2529 in accordance with this section.

2530 (9) The unlawful or unprofessional conduct provisions of Title 58, Occupations and  
2531 Professions, do not apply to a person licensed as a health professional under Title 58,  
2532 Occupations and Professions, including a nurse, physician, physician assistant, or pharmacist  
2533 who, in good faith, trains nonlicensed volunteers to administer glucagon in accordance with  
2534 this section.

2535 Section 50. Section 53G-9-505 is amended to read:

2536 **53G-9-505. Trained school employee volunteers -- Administration of seizure**  
2537 **rescue medication -- Exemptions from liability.**

2538 (1) As used in this section:

- 2539 (a) "Prescribing health care professional" means:
- 2540 (i) a physician and surgeon licensed under Title 58, Chapter 67, Utah Medical Practice
- 2541 Act;
- 2542 (ii) an osteopathic physician and surgeon licensed under Title 58, Chapter 68, Utah
- 2543 Osteopathic Medical Practice Act;
- 2544 (iii) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse
- 2545 Practice Act; or
- 2546 (iv) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician
- 2547 Assistant Act.
- 2548 (b) "Section 504 accommodation plan" means a plan developed pursuant to Section
- 2549 504 of the Rehabilitation Act of 1973, as amended, to provide appropriate accommodations to
- 2550 an individual with a disability to ensure access to major life activities.
- 2551 (c) "Seizure rescue authorization" means a student's Section 504 accommodation plan
- 2552 that:
- 2553 (i) certifies that:
- 2554 (A) a prescribing health care professional has prescribed a seizure rescue medication
- 2555 for the student;
- 2556 (B) the student's parent or legal guardian has previously administered the student's
- 2557 seizure rescue medication in a nonmedically-supervised setting without a complication; and
- 2558 (C) the student has previously ceased having full body prolonged or convulsive seizure
- 2559 activity as a result of receiving the seizure rescue medication;
- 2560 (ii) describes the specific seizure rescue medication authorized for the student,
- 2561 including the indicated dose, and instructions for administration;
- 2562 (iii) requests that the student's public school identify and train school employees who
- 2563 are willing to volunteer to receive training to administer a seizure rescue medication in
- 2564 accordance with this section; and
- 2565 (iv) authorizes a trained school employee volunteer to administer a seizure rescue
- 2566 medication in accordance with this section.
- 2567 (d) (i) "Seizure rescue medication" means a medication, prescribed by a prescribing
- 2568 health care professional, to be administered as described in a student's seizure rescue
- 2569 authorization, while the student experiences seizure activity.

- 2570 (ii) A seizure rescue medication does not include a medication administered  
2571 intravenously or intramuscularly.
- 2572 (e) "Trained school employee volunteer" means an individual who:
- 2573 (i) is an employee of a public school where at least one student has a seizure rescue  
2574 authorization;
- 2575 (ii) is at least 18 years old; and
- 2576 (iii) as described in this section:
- 2577 (A) volunteers to receive training in the administration of a seizure rescue medication;
- 2578 (B) completes a training program described in this section;
- 2579 (C) demonstrates competency on an assessment; and
- 2580 (D) completes annual refresher training each year that the individual intends to remain  
2581 a trained school employee volunteer.
- 2582 (2) (a) The Department of Health shall, with input from the State Board of Education  
2583 and a children's hospital, develop a training program for trained school employee volunteers in  
2584 the administration of seizure rescue medications that includes:
- 2585 (i) techniques to recognize symptoms that warrant the administration of a seizure  
2586 rescue medication;
- 2587 (ii) standards and procedures for the storage of a seizure rescue medication;
- 2588 (iii) procedures, in addition to administering a seizure rescue medication, in the event  
2589 that a student requires administration of the seizure rescue medication, including:
- 2590 (A) calling 911; and
- 2591 (B) contacting the student's parent or legal guardian;
- 2592 (iv) an assessment to determine if an individual is competent to administer a seizure  
2593 rescue medication;
- 2594 (v) an annual refresher training component; and
- 2595 (vi) written materials describing the information required under this Subsection (2)(a).
- 2596 (b) A public school shall retain for reference the written materials described in  
2597 Subsection (2)(a)(vi).
- 2598 (c) The following individuals may provide the training described in Subsection (2)(a):
- 2599 (i) a school nurse; or
- 2600 (ii) a licensed health care professional.

- 2601 (3) (a) A public school shall, after receiving a seizure rescue authorization:
- 2602 (i) inform school employees of the opportunity to be a school employee volunteer; and
- 2603 (ii) subject to Subsection (3)(b)(ii), provide training, to each school employee who
- 2604 volunteers, using the training program described in Subsection (2)(a).
- 2605 (b) A public school may not:
- 2606 (i) obstruct the identification or training of a trained school employee volunteer; or
- 2607 (ii) compel a school employee to become a trained school employee volunteer.
- 2608 (4) A trained school employee volunteer may possess or store a prescribed rescue
- 2609 seizure medication, in accordance with this section.
- 2610 (5) A trained school employee volunteer may administer a seizure rescue medication to
- 2611 a student with a seizure rescue authorization if:
- 2612 (a) the student is exhibiting a symptom, described on the student's seizure rescue
- 2613 authorization, that warrants the administration of a seizure rescue medication; and
- 2614 (b) a licensed health care professional is not immediately available to administer the
- 2615 seizure rescue medication.
- 2616 (6) A trained school employee volunteer who administers a seizure rescue medication
- 2617 shall direct an individual to call 911 and take other appropriate actions in accordance with the
- 2618 training described in Subsection (2).
- 2619 (7) A trained school employee volunteer who administers a seizure rescue medication
- 2620 in accordance with this section in good faith is not liable in a civil or criminal action for an act
- 2621 taken or not taken under this section.
- 2622 (8) Section [53G-9-502](#) does not apply to the administration of a seizure rescue
- 2623 medication.
- 2624 (9) Section [53G-8-205](#) does not apply to the possession of a seizure rescue medication
- 2625 in accordance with this section.
- 2626 (10) (a) The unlawful or unprofessional conduct provisions of Title 58, Occupations
- 2627 and Professions, do not apply to a person licensed as a health care professional under Title 58,
- 2628 Occupations and Professions, including a nurse, physician, physician assistant, or pharmacist
- 2629 for, in good faith, training a nonlicensed school employee who volunteers to administer a
- 2630 seizure rescue medication in accordance with this section.
- 2631 (b) Allowing a trained school employee volunteer to administer a seizure rescue

2632 medication in accordance with this section does not constitute unlawful or inappropriate  
2633 delegation under Title 58, Occupations and Professions.

2634 Section 51. Section **54-8b-10** is amended to read:

2635 **54-8b-10. Imposing a surcharge to provide deaf, hard of hearing, and speech**  
2636 **impaired individuals with telecommunication devices -- Definitions -- Procedures for**  
2637 **establishing program -- Surcharge -- Administration and disposition of surcharge money.**

2638 (1) As used in this section:

2639 (a) "Certified deaf, hard of hearing, or severely speech impaired individual" means any  
2640 state resident who:

2641 (i) is so certified by:

2642 (A) a licensed physician;

2643 (B) a licensed physician assistant;

2644 [~~(B)~~] (C) an otolaryngologist;

2645 [~~(C)~~] (D) a speech language pathologist;

2646 [~~(D)~~] (E) an audiologist; or

2647 [~~(E)~~] (F) a qualified state agency; and

2648 (ii) qualifies for assistance under any low income public assistance program  
2649 administered by a state agency.

2650 (b) "Certified interpreter" means a person who is a certified interpreter under Title  
2651 35A, Chapter 13, Part 6, Interpreter Services for the Deaf and Hard of Hearing Act.

2652 (c) (i) "Telecommunication device" means any mechanical adaptation device that  
2653 enables a deaf, hard of hearing, or severely speech impaired individual to use the telephone.

2654 (ii) "Telecommunication device" includes:

2655 (A) telecommunication devices for the deaf (TDD);

2656 (B) telephone amplifiers;

2657 (C) telephone signal devices;

2658 (D) artificial larynxes; and

2659 (E) adaptive equipment for TDD keyboard access.

2660 (2) The commission shall establish a program whereby a certified deaf, hard of hearing,  
2661 or severely speech impaired customer of a telecommunications corporation that provides  
2662 service through a local exchange or of a wireless telecommunications provider may obtain a

2663 telecommunication device capable of serving the customer at no charge to the customer beyond  
2664 the rate for basic service.

2665 (3) (a) The program described in Subsection (2) shall provide a dual party relay system  
2666 using third party intervention to connect a certified deaf, hard of hearing, or severely speech  
2667 impaired individual with a normal hearing individual by way of telecommunication devices  
2668 designed for that purpose.

2669 (b) The commission may, by rule, establish the type of telecommunications device to  
2670 be provided to ensure functional equivalence.

2671 (4) The commission shall cover the costs of the program described in this section from  
2672 the Universal Public Telecommunications Service Support Fund created in Section [54-8b-15](#).

2673 (5) In administering the program described in this section, the commission may use  
2674 funds from the Universal Public Telecommunications Service Support Fund:

2675 (a) for the purchase, maintenance, repair, and distribution of telecommunication  
2676 devices;

2677 (b) for the acquisition, operation, maintenance, and repair of a dual party relay system;

2678 (c) for the general administration of the program;

2679 (d) to train individuals in the use of telecommunications devices; and

2680 (e) to contract, in compliance with Title 63G, Chapter 6a, Utah Procurement Code,  
2681 with:

2682 (i) an institution within the state system of higher education listed in Section  
2683 [53B-1-102](#) for a program approved by the Board of Regents that trains persons to qualify as  
2684 certified interpreters; or

2685 (ii) the Utah State Office of Rehabilitation created in Section [35A-1-202](#) for a program  
2686 that trains persons to qualify as certified interpreters.

2687 (6) The commission may create disbursement criteria and procedures by rule made  
2688 under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for administering funds  
2689 under Subsection (5).

2690 (7) The commission shall solicit advice, counsel, and physical assistance from deaf,  
2691 hard of hearing, or severely speech impaired individuals and the organizations serving deaf,  
2692 hard of hearing, or severely speech impaired individuals in the design and implementation of  
2693 the program.

2694 Section 52. Section **58-1-111** is amended to read:

2695 **58-1-111. Tax credit certificate -- Psychiatrists, physician assistants, and**  
2696 **psychiatric mental health nurse practitioners -- Underserved populations.**

2697 (1) As used in this section:

2698 (a) "Average of 30 hours or more per week" means that the quotient calculated when  
2699 dividing the claimant's total hours providing licensed services in the state during the taxable  
2700 year by the number of weeks in which the claimant is licensed in the state during the taxable  
2701 year is greater than or equal to 30.

2702 (b) "Licensed services" means the provision of behavioral health treatment in the state  
2703 and within the scope of practice of a psychiatrist, a physician assistant, a psychiatric mental  
2704 health nurse practitioner, or a volunteer health practitioner.

2705 (c) "Physician assistant" means an individual who is licensed under Chapter 70a, Utah  
2706 Physician Assistant Act.

2707 [~~(e)~~] (d) "Psychiatric mental health nurse practitioner" means an individual who:

2708 (i) is licensed under Chapter 31b, Nurse Practice Act, for the practice of advanced  
2709 practice registered nursing as that term is defined in Section **58-31b-102**; and

2710 (ii) holds a certification recognized by the American Nurses Credentialing Center of  
2711 the American Association of Colleges of Nursing as a psychiatric mental health nurse  
2712 practitioner.

2713 [~~(d)~~] (e) "Psychiatrist" means an individual who:

2714 (i) is licensed as a physician under:

2715 (A) Chapter 67, Utah Medical Practice Act;

2716 (B) Chapter 67b, Interstate Medical Licensure Compact; or

2717 (C) Chapter 68, Utah Osteopathic Medical Practice Act; and

2718 (ii) is board eligible for a psychiatry specialization recognized by the American Board  
2719 of Medical Specialists or the American Osteopathic Association's Bureau of Osteopathic  
2720 Specialists.

2721 [~~(e)~~] (f) "Underserved population" means:

2722 (i) an individual located in a county of the third, fourth, fifth, or sixth class, as  
2723 designated in Section **17-50-501**; or

2724 (ii) a Native American Indian.

2725            [(f)] (g) "Volunteer retired psychiatrist" means an individual:

2726            (i) described in Subsection ~~[(1)(d)]~~ (1)(e) who, during the calendar year, did not receive

2727 payment for providing licensed services; or

2728            (ii) (A) licensed under Chapter 81, Retired Volunteer Health Care Practitioner Act; and

2729            (B) previously or currently board certified in psychiatry.

2730            (2) (a) An individual who seeks to obtain a state income tax credit under Subsections

2731 59-10-1111(2) through (4) shall file an application with the division with respect to each

2732 taxable year in which the individual seeks a state income tax credit.

2733            (b) An individual may qualify for a tax credit certificate under this section for no more

2734 than 10 taxable years for each tax credit.

2735            (3) The application for a tax credit certificate under Subsection 59-10-1111(2) shall

2736 require the individual to provide the following to the division:

2737            (a) the date on which the individual obtained a license and the specialization described

2738 in Subsection ~~[(1)(c)(ii) or (d)(ii)]~~ (1)(d)(ii) or (e)(ii);

2739            (b) (i) an attestation that the individual was licensed on or after January 1, 2017, to

2740 provide licensed services; or

2741            (ii) if the individual was licensed to provide licensed services prior to January 1, 2017,

2742 an attestation:

2743            (A) that the individual did not provide licensed services for the two calendar years

2744 before the date the individual initially applied for the income tax credit under this subsection;

2745 and

2746            (B) the date on which the individual resumed providing licensed services in the state;

2747 and

2748            (c) other information as required by the division by administrative rule adopted in

2749 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

2750            (4) An application for a tax credit certificate under Subsection 59-10-1111(3) shall

2751 require the individual to attest to the division:

2752            (a) that the individual averaged 30 or more hours per week during the taxable year

2753 providing licensed services;

2754            (b) that the individual devoted 25% or more of the individual's total hours of licensed

2755 services in the taxable year to an underserved population;

2756 (c) the type of underserved population for which the individual provided services  
2757 during the taxable year; and

2758 (d) other information as required by the division by administrative rule adopted in  
2759 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

2760 (5) An application for a tax credit certificate under Subsection 59-10-1111(4) shall  
2761 require the individual to attest to the division:

2762 (a) whether the individual is licensed under Subsection ~~[(1)(f)(i)]~~ (1)(g)(i) or (ii);

2763 (b) that the individual did not receive payment during the calendar year for providing  
2764 licensed services;

2765 (c) that during the calendar year, the individual provided at least 300 hours of licensed  
2766 services to an underserved population, the homeless population, or veterans without receiving  
2767 payment for providing the licensed services;

2768 (d) a description of the type of population described in Subsection (5)(c) for which the  
2769 individual provided licensed services; and

2770 (e) other information as required by the division by administrative rule adopted in  
2771 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

2772 (6) (a) The division shall issue a tax credit certificate in accordance with this  
2773 subsection.

2774 (b) The tax credit certificate may state that an individual is entitled to:

2775 (i) a tax credit under Subsection 59-10-1111(2) if the individual meets the  
2776 requirements of Subsection (3);

2777 (ii) a tax credit under Subsection 59-10-1111(3) if the individual meets the  
2778 requirements of Subsection (4);

2779 (iii) a tax credit under Subsection 59-10-1111(4) if the individual meets the  
2780 requirements of Subsection (5); or

2781 (iv) a tax credit under Subsections 59-10-1111(2) and (3) if the individual meets the  
2782 requirements of Subsections (3) and (4).

2783 (7) (a) The division may issue a tax credit certificate to an individual under Subsection  
2784 59-10-1111(2) for no more than 10 taxable years after the date on which the individual  
2785 resumed services under Subsection (3)(b)(ii).

2786 (b) The division may issue a tax credit certificate to an individual under Subsections

2787 59-10-1111(3) and (4) for no more than 10 taxable years.

2788 (8) The division shall provide a copy of a tax credit certificate issued under this section  
2789 to the individual and the State Tax Commission.

2790 Section 53. Section **58-1-307** is amended to read:

2791 **58-1-307. Exemptions from licensure.**

2792 (1) Except as otherwise provided by statute or rule, the following individuals may  
2793 engage in the practice of their occupation or profession, subject to the stated circumstances and  
2794 limitations, without being licensed under this title:

2795 (a) an individual serving in the armed forces of the United States, the United States  
2796 Public Health Service, the United States Department of Veterans Affairs, or other federal  
2797 agencies while engaged in activities regulated under this chapter as a part of employment with  
2798 that federal agency if the individual holds a valid license to practice a regulated occupation or  
2799 profession issued by any other state or jurisdiction recognized by the division;

2800 (b) a student engaged in activities constituting the practice of a regulated occupation or  
2801 profession while in training in a recognized school approved by the division to the extent the  
2802 activities are supervised by qualified faculty, staff, or designee and the activities are a defined  
2803 part of the training program;

2804 (c) an individual engaged in an internship, residency, preceptorship, postceptorship,  
2805 fellowship, apprenticeship, or on-the-job training program approved by the division while  
2806 under the supervision of qualified individuals;

2807 (d) an individual residing in another state and licensed to practice a regulated  
2808 occupation or profession in that state, who is called in for a consultation by an individual  
2809 licensed in this state, and the services provided are limited to that consultation;

2810 (e) an individual who is invited by a recognized school, association, society, or other  
2811 body approved by the division to conduct a lecture, clinic, or demonstration of the practice of a  
2812 regulated occupation or profession if the individual does not establish a place of business or  
2813 regularly engage in the practice of the regulated occupation or profession in this state;

2814 (f) an individual licensed under the laws of this state, other than under this title, to  
2815 practice or engage in an occupation or profession, while engaged in the lawful, professional,  
2816 and competent practice of that occupation or profession;

2817 (g) an individual licensed in a health care profession in another state who performs that

2818 profession while attending to the immediate needs of a patient for a reasonable period during  
2819 which the patient is being transported from outside of this state, into this state, or through this  
2820 state;

2821 (h) an individual licensed in another state or country who is in this state temporarily to  
2822 attend to the needs of an athletic team or group, except that the practitioner may only attend to  
2823 the needs of the athletic team or group, including all individuals who travel with the team or  
2824 group in any capacity except as a spectator;

2825 (i) an individual licensed and in good standing in another state, who is in this state:

2826 (i) temporarily, under the invitation and control of a sponsoring entity;

2827 (ii) for a reason associated with a special purpose event, based upon needs that may  
2828 exceed the ability of this state to address through its licensees, as determined by the division;  
2829 and

2830 (iii) for a limited period of time not to exceed the duration of that event, together with  
2831 any necessary preparatory and conclusionary periods; and

2832 (j) the spouse of an individual serving in the armed forces of the United States while  
2833 the individual is stationed within this state, provided:

2834 (i) the spouse holds a valid license to practice a regulated occupation or profession  
2835 issued by any other state or jurisdiction recognized by the division; and

2836 (ii) the license is current and the spouse is in good standing in the state of licensure.

2837 (2) (a) A practitioner temporarily in this state who is exempted from licensure under  
2838 Subsection (1) shall comply with each requirement of the licensing jurisdiction from which the  
2839 practitioner derives authority to practice.

2840 (b) Violation of a limitation imposed by this section constitutes grounds for removal of  
2841 exempt status, denial of license, or other disciplinary proceedings.

2842 (3) An individual who is licensed under a specific chapter of this title to practice or  
2843 engage in an occupation or profession may engage in the lawful, professional, and competent  
2844 practice of that occupation or profession without additional licensure under other chapters of  
2845 this title, except as otherwise provided by this title.

2846 (4) Upon the declaration of a national, state, or local emergency, a public health  
2847 emergency as defined in Section [26-23b-102](#), or a declaration by the president of the United  
2848 States or other federal official requesting public health-related activities, the division in

2849 collaboration with the board may:

2850 (a) suspend the requirements for permanent or temporary licensure of individuals who  
2851 are licensed in another state for the duration of the emergency while engaged in the scope of  
2852 practice for which they are licensed in the other state;

2853 (b) modify, under the circumstances described in this Subsection (4) and Subsection  
2854 (5), the scope of practice restrictions under this title for individuals who are licensed under this  
2855 title as:

2856 (i) a physician under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah  
2857 Osteopathic Medical Practice Act;

2858 (ii) a nurse under Chapter 31b, Nurse Practice Act, or Chapter 31c, Nurse Licensure  
2859 Compact;

2860 (iii) a certified nurse midwife under Chapter 44a, Nurse Midwife Practice Act;

2861 (iv) a pharmacist, pharmacy technician, or pharmacy intern under Chapter 17b,  
2862 Pharmacy Practice Act;

2863 (v) a respiratory therapist under Chapter 57, Respiratory Care Practices Act;

2864 (vi) a dentist and dental hygienist under Chapter 69, Dentist and Dental Hygienist  
2865 Practice Act; and

2866 (vii) a physician assistant under Chapter 70a, Utah Physician Assistant Act;

2867 (c) suspend the requirements for licensure under this title and modify the scope of  
2868 practice in the circumstances described in this Subsection (4) and Subsection (5) for medical  
2869 services personnel or paramedics required to be licensed under Section [26-8a-302](#);

2870 (d) suspend requirements in Subsections [58-17b-620](#)(3) through (6) which require  
2871 certain prescriptive procedures;

2872 (e) exempt or modify the requirement for licensure of an individual who is activated as  
2873 a member of a medical reserve corps during a time of emergency as provided in Section  
2874 [26A-1-126](#); and

2875 (f) exempt or modify the requirement for licensure of an individual who is registered as  
2876 a volunteer health practitioner as provided in Title 26, Chapter 49, Uniform Emergency  
2877 Volunteer Health Practitioners Act.

2878 (5) Individuals exempt under Subsection (4)(c) and individuals operating under  
2879 modified scope of practice provisions under Subsection (4)(b):

2880 (a) are exempt from licensure or subject to modified scope of practice for the duration  
2881 of the emergency;

2882 (b) must be engaged in the distribution of medicines or medical devices in response to  
2883 the emergency or declaration; and

2884 (c) must be employed by or volunteering for:

2885 (i) a local or state department of health; or

2886 (ii) a host entity as defined in Section 26-49-102.

2887 (6) In accordance with the protocols established under Subsection (8), upon the  
2888 declaration of a national, state, or local emergency, the Department of Health or a local health  
2889 department shall coordinate with public safety authorities as defined in Subsection  
2890 26-23b-110(1) and may:

2891 (a) use a vaccine, antiviral, antibiotic, or other prescription medication that is not a  
2892 controlled substance to prevent or treat a disease or condition that gave rise to, or was a  
2893 consequence of, the emergency; or

2894 (b) distribute a vaccine, antiviral, antibiotic, or other prescription medication that is not  
2895 a controlled substance:

2896 (i) if necessary, to replenish a commercial pharmacy in the event that the commercial  
2897 pharmacy's normal source of the vaccine, antiviral, antibiotic, or other prescription medication  
2898 is exhausted; or

2899 (ii) for dispensing or direct administration to treat the disease or condition that gave  
2900 rise to, or was a consequence of, the emergency by:

2901 (A) a pharmacy;

2902 (B) a prescribing practitioner;

2903 (C) a licensed health care facility;

2904 (D) a federally qualified community health clinic; or

2905 (E) a governmental entity for use by a community more than 50 miles from a person  
2906 described in Subsections (6)(b)(ii)(A) through (D).

2907 (7) In accordance with protocols established under Subsection (8), upon the declaration  
2908 of a national, state, or local emergency, the Department of Health shall coordinate the  
2909 distribution of medications:

2910 (a) received from the strategic national stockpile to local health departments; and

2911 (b) from local health departments to emergency personnel within the local health  
2912 departments' geographic region.

2913 (8) The Department of Health shall establish by rule, made in accordance with Title  
2914 63G, Chapter 3, Utah Administrative Rulemaking Act, protocols for administering, dispensing,  
2915 and distributing a vaccine, an antiviral, an antibiotic, or other prescription medication that is  
2916 not a controlled substance in the event of a declaration of a national, state, or local emergency.  
2917 The protocol shall establish procedures for the Department of Health or a local health  
2918 department to:

2919 (a) coordinate the distribution of:

2920 (i) a vaccine, an antiviral, an antibiotic, or other prescription medication that is not a  
2921 controlled substance received by the Department of Health from the strategic national stockpile  
2922 to local health departments; and

2923 (ii) a vaccine, an antiviral, an antibiotic, or other non-controlled prescription  
2924 medication received by a local health department to emergency personnel within the local  
2925 health department's geographic region;

2926 (b) authorize the dispensing, administration, or distribution of a vaccine, an antiviral,  
2927 an antibiotic, or other prescription medication that is not a controlled substance to the contact  
2928 of a patient without a patient-practitioner relationship, if the contact's condition is the same as  
2929 that of the physician's or physician assistant's patient; and

2930 (c) authorize the administration, distribution, or dispensing of a vaccine, an antiviral,  
2931 an antibiotic, or other non-controlled prescription medication to an individual who:

2932 (i) is working in a triage situation;

2933 (ii) is receiving preventative or medical treatment in a triage situation;

2934 (iii) does not have coverage for the prescription in the individual's health insurance  
2935 plan;

2936 (iv) is involved in the delivery of medical or other emergency services in response to  
2937 the declared national, state, or local emergency; or

2938 (v) otherwise has a direct impact on public health.

2939 (9) The Department of Health shall give notice to the division upon implementation of  
2940 the protocol established under Subsection (8).

2941 Section 54. Section **58-1-501.5** is amended to read:

2942 **58-1-501.5. Anatomic pathology services -- Billing violations.**

2943 (1) As used in this section, the following definitions apply:

2944 (a) (i) "Anatomic pathology services" including "technical or professional component  
2945 of anatomic pathology services" means:2946 (A) histopathology or surgical pathology, meaning the gross examination of, histologic  
2947 processing of, or microscopic examination of human organ tissue performed by a physician or  
2948 physician assistant, or under the supervision of a physician;2949 (B) cytopathology, meaning the examination of human cells, from fluids, aspirates,  
2950 washings, brushings, or smears, including the pap test examination performed by a physician,  
2951 or physician assistant, or under the supervision of a physician;2952 (C) hematology, meaning the microscopic evaluation of human bone marrow aspirates  
2953 and biopsies performed by a physician or physician assistant, or under the supervision of a  
2954 physician, and peripheral human blood smears when the attending or treating physician, or  
2955 physician assistant, or other practitioner of the healing arts or a technologist requests that a  
2956 blood smear be reviewed by a pathologist;

2957 (D) subcellular pathology and molecular pathology; and

2958 (E) blood bank services performed by a pathologist.

2959 (ii) "Anatomic pathology services" including "technical or professional component of  
2960 anatomic pathology services" does not include the initial collection or packaging of a sample  
2961 for transport.2962 (b) "Clinical laboratory" or "laboratory" means a facility for the biological,  
2963 microbiological, serological, chemical, immunohematological, hematological, biophysical,  
2964 cytological, pathological, or other examination of materials derived from the human body for  
2965 the purpose of providing information for the diagnosis, prevention, or treatment of any disease  
2966 or impairment of human beings or the assessment of the health of human beings.2967 (c) "Health care facility" has the meaning provided in Section [26-21-2](#).

2968 (d) "Health care provider" includes:

2969 (i) an advanced practice registered nurse licensed under Chapter 31b, Nurse Practice

2970 Act;

2971 (ii) a chiropractic physician licensed under Chapter 73, Chiropractic Physician Practice

2972 Act;

- 2973 (iii) a dentist licensed under Chapter 69, Dentist and Dental Hygienist Practice Act;  
2974 (iv) a nurse midwife licensed under Chapter 44a, Nurse Midwife Practice Act;  
2975 (v) an optometrist licensed under Chapter 16a, Utah Optometry Practice Act;  
2976 (vi) an osteopathic physician and surgeon licensed under Chapter 68, Utah Osteopathic  
2977 Medical Practice Act;  
2978 (vii) a podiatric physician licensed under Chapter 5a, Podiatric Physician Licensing  
2979 Act;  
2980 (viii) a physician and surgeon licensed under Chapter 67, Utah Medical Practice Act;  
2981 and  
2982 (ix) a physician assistant licensed under Chapter 70a, Utah Physician Assistant Act.  
2983 (e) "Insurer" includes:  
2984 (i) any entity offering accident and health insurance as defined in Section 31A-1-301;  
2985 (ii) workers' compensation benefits;  
2986 (iii) a health maintenance organization; or  
2987 (iv) any self-insurance, as defined in Section 31A-1-301, that offers health care  
2988 insurance or benefits.
- 2989 (2) (a) A health care provider who orders anatomic pathology services for a patient  
2990 from an independent physician or laboratory may not directly or indirectly mark up, charge a  
2991 commission, or make a profit on the anatomic pathology service provided by the independent  
2992 physician or laboratory.
- 2993 (b) Nothing in Subsection (2)(a):  
2994 (i) restricts the ability of a health care provider, who has not performed or supervised  
2995 either the technical or professional component of the anatomic pathology service, to obtain  
2996 payment for services related solely to the collection and packaging of a sample and  
2997 administrative billing costs; or  
2998 (ii) restricts the ability of the lab function in the Department of Health to bill for  
2999 services.
- 3000 (3) A health care provider when billing a patient directly for anatomic pathology  
3001 services provided by an independent physician or laboratory shall furnish an itemized bill  
3002 which conforms with the billing practices of the American Medical Association that  
3003 conspicuously discloses the charge for each anatomic pathology service, physician or

3004 laboratory name, and address for each anatomic pathology service rendered to the patient by the  
3005 physician or laboratory that performed the anatomic pathology service.

3006 (4) The disclosure to be made under Subsection (3) shall not be required when the  
3007 anatomic pathology service is being ordered by a hospital, a laboratory performing either the  
3008 professional or technical component of the service, or a physician or physician assistant  
3009 performing either the professional or technical component of the service, a public health clinic,  
3010 or a state or federal agency.

3011 (5) Failure to comply with the requirements of this section shall be considered to be  
3012 unprofessional conduct.

3013 Section 55. Section **58-37-6** is amended to read:

3014 **58-37-6. License to manufacture, produce, distribute, dispense, administer, or**  
3015 **conduct research -- Issuance by division -- Denial, suspension, or revocation -- Records**  
3016 **required -- Prescriptions.**

3017 (1) (a) The division may adopt rules relating to the licensing and control of the  
3018 manufacture, distribution, production, prescription, administration, dispensing, conducting of  
3019 research with, and performing of laboratory analysis upon controlled substances within this  
3020 state.

3021 (b) The division may assess reasonable fees to defray the cost of issuing original and  
3022 renewal licenses under this chapter pursuant to Section [63J-1-504](#).

3023 (2) (a) (i) Every person who manufactures, produces, distributes, prescribes, dispenses,  
3024 administers, conducts research with, or performs laboratory analysis upon any controlled  
3025 substance in Schedules I through V within this state, or who proposes to engage in  
3026 manufacturing, producing, distributing, prescribing, dispensing, administering, conducting  
3027 research with, or performing laboratory analysis upon controlled substances included in  
3028 Schedules I through V within this state shall obtain a license issued by the division.

3029 (ii) The division shall issue each license under this chapter in accordance with a  
3030 two-year renewal cycle established by rule. The division may by rule extend or shorten a  
3031 renewal period by as much as one year to stagger the renewal cycles it administers.

3032 (b) Persons licensed to manufacture, produce, distribute, prescribe, dispense,  
3033 administer, conduct research with, or perform laboratory analysis upon controlled substances in  
3034 Schedules I through V within this state may possess, manufacture, produce, distribute,

3035 prescribe, dispense, administer, conduct research with, or perform laboratory analysis upon  
3036 those substances to the extent authorized by their license and in conformity with this chapter.

3037 (c) The following persons are not required to obtain a license and may lawfully possess  
3038 controlled substances included in Schedules II through V under this section:

3039 (i) an agent or employee, except a sales representative, of any registered manufacturer,  
3040 distributor, or dispenser of any controlled substance, if the agent or employee is acting in the  
3041 usual course of the person's business or employment; however, nothing in this subsection shall  
3042 be interpreted to permit an agent, employee, sales representative, or detail man to maintain an  
3043 inventory of controlled substances separate from the location of the person's employer's  
3044 registered and licensed place of business;

3045 (ii) a motor carrier or warehouseman, or an employee of a motor carrier or  
3046 warehouseman, who possesses any controlled substance in the usual course of the person's  
3047 business or employment; and

3048 (iii) an ultimate user, or any person who possesses any controlled substance pursuant to  
3049 a lawful order of a practitioner.

3050 (d) The division may enact rules waiving the license requirement for certain  
3051 manufacturers, producers, distributors, prescribers, dispensers, administrators, research  
3052 practitioners, or laboratories performing analysis if consistent with the public health and safety.

3053 (e) A separate license is required at each principal place of business or professional  
3054 practice where the applicant manufactures, produces, distributes, dispenses, conducts research  
3055 with, or performs laboratory analysis upon controlled substances.

3056 (f) The division may enact rules providing for the inspection of a licensee or applicant's  
3057 establishment, and may inspect the establishment according to those rules.

3058 (3) (a) (i) Upon proper application, the division shall license a qualified applicant to  
3059 manufacture, produce, distribute, conduct research with, or perform laboratory analysis upon  
3060 controlled substances included in Schedules I through V, unless it determines that issuance of a  
3061 license is inconsistent with the public interest.

3062 (ii) The division may not issue a license to any person to prescribe, dispense, or  
3063 administer a Schedule I controlled substance except under Subsection (3)(a)(i).

3064 (iii) In determining public interest under this Subsection (3)(a), the division shall  
3065 consider whether or not the applicant has:

3066 (A) maintained effective controls against diversion of controlled substances and any  
3067 Schedule I or II substance compounded from any controlled substance into other than  
3068 legitimate medical, scientific, or industrial channels;

3069 (B) complied with applicable state and local law;

3070 (C) been convicted under federal or state laws relating to the manufacture, distribution,  
3071 or dispensing of substances;

3072 (D) past experience in the manufacture of controlled dangerous substances;

3073 (E) established effective controls against diversion; and

3074 (F) complied with any other factors that the division establishes that promote the public  
3075 health and safety.

3076 (b) Licenses granted under Subsection (3)(a) do not entitle a licensee to manufacture,  
3077 produce, distribute, conduct research with, or perform laboratory analysis upon controlled  
3078 substances in Schedule I other than those specified in the license.

3079 (c) (i) Practitioners shall be licensed to administer, dispense, or conduct research with  
3080 substances in Schedules II through V if they are authorized to administer, dispense, or conduct  
3081 research under the laws of this state.

3082 (ii) The division need not require a separate license for practitioners engaging in  
3083 research with nonnarcotic controlled substances in Schedules II through V where the licensee is  
3084 already licensed under this chapter in another capacity.

3085 (iii) With respect to research involving narcotic substances in Schedules II through V,  
3086 or where the division by rule requires a separate license for research of nonnarcotic substances  
3087 in Schedules II through V, a practitioner shall apply to the division prior to conducting  
3088 research.

3089 (iv) Licensing for purposes of bona fide research with controlled substances by a  
3090 practitioner considered qualified may be denied only on a ground specified in Subsection (4),  
3091 or upon evidence that the applicant will abuse or unlawfully transfer or fail to safeguard  
3092 adequately the practitioner's supply of substances against diversion from medical or scientific  
3093 use.

3094 (v) Practitioners registered under federal law to conduct research in Schedule I  
3095 substances may conduct research in Schedule I substances within this state upon furnishing the  
3096 division evidence of federal registration.

3097 (d) Compliance by manufacturers, producers, and distributors with the provisions of  
3098 federal law respecting registration, excluding fees, entitles them to be licensed under this  
3099 chapter.

3100 (e) The division shall initially license those persons who own or operate an  
3101 establishment engaged in the manufacture, production, distribution, dispensation, or  
3102 administration of controlled substances prior to April 3, 1980, and who are licensed by the  
3103 state.

3104 (4) (a) Any license pursuant to Subsection (2) or (3) may be denied, suspended, placed  
3105 on probation, or revoked by the division upon finding that the applicant or licensee has:

3106 (i) materially falsified any application filed or required pursuant to this chapter;

3107 (ii) been convicted of an offense under this chapter or any law of the United States, or  
3108 any state, relating to any substance defined as a controlled substance;

3109 (iii) been convicted of a felony under any other law of the United States or any state  
3110 within five years of the date of the issuance of the license;

3111 (iv) had a federal registration or license denied, suspended, or revoked by competent  
3112 federal authority and is no longer authorized to manufacture, distribute, prescribe, or dispense  
3113 controlled substances;

3114 (v) had the licensee's license suspended or revoked by competent authority of another  
3115 state for violation of laws or regulations comparable to those of this state relating to the  
3116 manufacture, distribution, or dispensing of controlled substances;

3117 (vi) violated any division rule that reflects adversely on the licensee's reliability and  
3118 integrity with respect to controlled substances;

3119 (vii) refused inspection of records required to be maintained under this chapter by a  
3120 person authorized to inspect them; or

3121 (viii) prescribed, dispensed, administered, or injected an anabolic steroid for the  
3122 purpose of manipulating human hormonal structure so as to:

3123 (A) increase muscle mass, strength, or weight without medical necessity and without a  
3124 written prescription by any practitioner in the course of the practitioner's professional practice;

3125 or

3126 (B) improve performance in any form of human exercise, sport, or game.

3127 (b) The division may limit revocation or suspension of a license to a particular

3128 controlled substance with respect to which grounds for revocation or suspension exist.

3129 (c) (i) Proceedings to deny, revoke, or suspend a license shall be conducted pursuant to  
3130 this section and in accordance with the procedures set forth in [~~Title 58,~~] Chapter 1, Division of  
3131 Occupational and Professional Licensing Act, and conducted in conjunction with the  
3132 appropriate representative committee designated by the director of the department.

3133 (ii) Nothing in this Subsection (4)(c) gives the Division of Occupational and  
3134 Professional Licensing exclusive authority in proceedings to deny, revoke, or suspend licenses,  
3135 except where the division is designated by law to perform those functions, or, when not  
3136 designated by law, is designated by the executive director of the Department of Commerce to  
3137 conduct the proceedings.

3138 (d) (i) The division may suspend any license simultaneously with the institution of  
3139 proceedings under this section if it finds there is an imminent danger to the public health or  
3140 safety.

3141 (ii) Suspension shall continue in effect until the conclusion of proceedings, including  
3142 judicial review, unless withdrawn by the division or dissolved by a court of competent  
3143 jurisdiction.

3144 (e) (i) If a license is suspended or revoked under this Subsection (4), all controlled  
3145 substances owned or possessed by the licensee may be placed under seal in the discretion of the  
3146 division.

3147 (ii) Disposition may not be made of substances under seal until the time for taking an  
3148 appeal has lapsed, or until all appeals have been concluded, unless a court, upon application,  
3149 orders the sale of perishable substances and the proceeds deposited with the court.

3150 (iii) If a revocation order becomes final, all controlled substances shall be forfeited.

3151 (f) The division shall notify promptly the Drug Enforcement Administration of all  
3152 orders suspending or revoking a license and all forfeitures of controlled substances.

3153 (g) If an individual's Drug Enforcement Administration registration is denied, revoked,  
3154 surrendered, or suspended, the division shall immediately suspend the individual's controlled  
3155 substance license, which shall only be reinstated by the division upon reinstatement of the  
3156 federal registration, unless the division has taken further administrative action under  
3157 Subsection (4)(a)(iv), which would be grounds for the continued denial of the controlled  
3158 substance license.

3159 (5) (a) Persons licensed under Subsection (2) or (3) shall maintain records and  
3160 inventories in conformance with the record keeping and inventory requirements of federal and  
3161 state law and any additional rules issued by the division.

3162 (b) (i) Every physician, physician assistant, dentist, naturopathic physician,  
3163 veterinarian, practitioner, or other person who is authorized to administer or professionally use  
3164 a controlled substance shall keep a record of the drugs received by him and a record of all  
3165 drugs administered, dispensed, or professionally used by him otherwise than by a prescription.

3166 (ii) A person using small quantities or solutions or other preparations of those drugs for  
3167 local application has complied with this Subsection (5)(b) if the person keeps a record of the  
3168 quantity, character, and potency of those solutions or preparations purchased or prepared by  
3169 him, and of the dates when purchased or prepared.

3170 (6) Controlled substances in Schedules I through V may be distributed only by a  
3171 licensee and pursuant to an order form prepared in compliance with division rules or a lawful  
3172 order under the rules and regulations of the United States.

3173 (7) (a) A person may not write or authorize a prescription for a controlled substance  
3174 unless the person is:

3175 (i) a practitioner authorized to prescribe drugs and medicine under the laws of this state  
3176 or under the laws of another state having similar standards; and

3177 (ii) licensed under this chapter or under the laws of another state having similar  
3178 standards.

3179 (b) A person other than a pharmacist licensed under the laws of this state, or the  
3180 pharmacist's licensed intern, as required by Sections [58-17b-303](#) and [58-17b-304](#), may not  
3181 dispense a controlled substance.

3182 (c) (i) A controlled substance may not be dispensed without the written prescription of  
3183 a practitioner, if the written prescription is required by the federal Controlled Substances Act.

3184 (ii) That written prescription shall be made in accordance with Subsection (7)(a) and in  
3185 conformity with Subsection (7)(d).

3186 (iii) In emergency situations, as defined by division rule, controlled substances may be  
3187 dispensed upon oral prescription of a practitioner, if reduced promptly to writing on forms  
3188 designated by the division and filed by the pharmacy.

3189 (iv) Prescriptions reduced to writing by a pharmacist shall be in conformity with

3190 Subsection (7)(d).

3191 (d) Except for emergency situations designated by the division, a person may not issue,  
3192 fill, compound, or dispense a prescription for a controlled substance unless the prescription is  
3193 signed by the prescriber in ink or indelible pencil or is signed with an electronic signature of  
3194 the prescriber as authorized by division rule, and contains the following information:

3195 (i) the name, address, and registry number of the prescriber;

3196 (ii) the name, address, and age of the person to whom or for whom the prescription is  
3197 issued;

3198 (iii) the date of issuance of the prescription; and

3199 (iv) the name, quantity, and specific directions for use by the ultimate user of the  
3200 controlled substance.

3201 (e) A prescription may not be written, issued, filled, or dispensed for a Schedule I  
3202 controlled substance unless:

3203 (i) the person who writes the prescription is licensed under Subsection (2); and

3204 (ii) the prescribed controlled substance is to be used in research.

3205 (f) Except when administered directly to an ultimate user by a licensed practitioner,  
3206 controlled substances are subject to the restrictions of this Subsection (7)(f).

3207 (i) A prescription for a Schedule II substance may not be refilled.

3208 (ii) A Schedule II controlled substance may not be filled in a quantity to exceed a  
3209 one-month's supply, as directed on the daily dosage rate of the prescriptions.

3210 (iii) (A) Except as provided in Subsection (7)(f)(iii)(B), a prescription for a Schedule II  
3211 or Schedule III controlled substance that is an opiate and that is issued for an acute condition  
3212 shall be completely or partially filled in a quantity not to exceed a seven-day supply as directed  
3213 on the daily dosage rate of the prescription.

3214 (B) Subsection (7)(f)(iii)(A) does not apply to a prescription issued for a surgery when  
3215 the practitioner determined that a quantity exceeding seven days is needed, in which case the  
3216 practitioner may prescribe up to a 30-day supply, with a partial fill at the discretion of the  
3217 practitioner.

3218 (C) Subsection (7)(f)(iii)(A) does not apply to prescriptions issued for complex or  
3219 chronic conditions which are documented as being complex or chronic in the medical record.

3220 (D) A pharmacist is not required to verify that a prescription is in compliance with

3221 Subsection (7)(f)(iii).

3222 (iv) A Schedule III or IV controlled substance may be filled only within six months of  
3223 issuance, and may not be refilled more than six months after the date of its original issuance or  
3224 be refilled more than five times after the date of the prescription unless renewed by the  
3225 practitioner.

3226 (v) All other controlled substances in Schedule V may be refilled as the prescriber's  
3227 prescription directs, but they may not be refilled one year after the date the prescription was  
3228 issued unless renewed by the practitioner.

3229 (vi) Any prescription for a Schedule II substance may not be dispensed if it is not  
3230 presented to a pharmacist for dispensing by a pharmacist or a pharmacy intern within 30 days  
3231 after the date the prescription was issued, or 30 days after the dispensing date, if that date is  
3232 specified separately from the date of issue.

3233 (vii) A practitioner may issue more than one prescription at the same time for the same  
3234 Schedule II controlled substance, but only under the following conditions:

3235 (A) no more than three prescriptions for the same Schedule II controlled substance may  
3236 be issued at the same time;

3237 (B) no one prescription may exceed a 30-day supply; and

3238 (C) a second or third prescription shall include the date of issuance and the date for  
3239 dispensing.

3240 (g) An order for a controlled substance in Schedules II through V for use by an  
3241 inpatient or an outpatient of a licensed hospital is exempt from all requirements of this  
3242 Subsection (7) if the order is:

3243 (i) issued or made by a prescribing practitioner who holds an unrestricted registration  
3244 with the federal Drug Enforcement Administration, and an active Utah controlled substance  
3245 license in good standing issued by the division under this section, or a medical resident who is  
3246 exempted from licensure under Subsection [58-1-307\(1\)\(c\)](#);

3247 (ii) authorized by the prescribing practitioner treating the patient and the prescribing  
3248 practitioner designates the quantity ordered;

3249 (iii) entered upon the record of the patient, the record is signed by the prescriber  
3250 affirming the prescriber's authorization of the order within 48 hours after filling or  
3251 administering the order, and the patient's record reflects the quantity actually administered; and

3252 (iv) filled and dispensed by a pharmacist practicing the pharmacist's profession within  
3253 the physical structure of the hospital, or the order is taken from a supply lawfully maintained by  
3254 the hospital and the amount taken from the supply is administered directly to the patient  
3255 authorized to receive it.

3256 (h) A practitioner licensed under this chapter may not prescribe, administer, or  
3257 dispense a controlled substance to a child, without first obtaining the consent required in  
3258 Section 78B-3-406 of a parent, guardian, or person standing in loco parentis of the child except  
3259 in cases of an emergency. For purposes of this Subsection (7)(h), "child" has the same  
3260 meaning as defined in Section 78A-6-105, and "emergency" means any physical condition  
3261 requiring the administration of a controlled substance for immediate relief of pain or suffering.

3262 (i) A practitioner licensed under this chapter may not prescribe or administer dosages  
3263 of a controlled substance in excess of medically recognized quantities necessary to treat the  
3264 ailment, malady, or condition of the ultimate user.

3265 (j) A practitioner licensed under this chapter may not prescribe, administer, or dispense  
3266 any controlled substance to another person knowing that the other person is using a false name,  
3267 address, or other personal information for the purpose of securing the controlled substance.

3268 (k) A person who is licensed under this chapter to manufacture, distribute, or dispense  
3269 a controlled substance may not manufacture, distribute, or dispense a controlled substance to  
3270 another licensee or any other authorized person not authorized by this license.

3271 (l) A person licensed under this chapter may not omit, remove, alter, or obliterate a  
3272 symbol required by this chapter or by a rule issued under this chapter.

3273 (m) A person licensed under this chapter may not refuse or fail to make, keep, or  
3274 furnish any record notification, order form, statement, invoice, or information required under  
3275 this chapter.

3276 (n) A person licensed under this chapter may not refuse entry into any premises for  
3277 inspection as authorized by this chapter.

3278 (o) A person licensed under this chapter may not furnish false or fraudulent material  
3279 information in any application, report, or other document required to be kept by this chapter or  
3280 willfully make any false statement in any prescription, order, report, or record required by this  
3281 chapter.

3282 (8) (a) (i) Any person licensed under this chapter who is found by the division to have

3283 violated any of the provisions of Subsections (7)(k) through (o) or Subsection (10) is subject to  
3284 a penalty not to exceed \$5,000. The division shall determine the procedure for adjudication of  
3285 any violations in accordance with Sections 58-1-106 and 58-1-108.

3286 (ii) The division shall deposit all penalties collected under Subsection (8)(a)(i) in the  
3287 General Fund as a dedicated credit to be used by the division under Subsection 58-37f-502(1).

3288 (iii) The director may collect a penalty that is not paid by:

3289 (A) referring the matter to a collection agency; or

3290 (B) bringing an action in the district court of the county where the person against  
3291 whom the penalty is imposed resides or in the county where the office of the director is located.

3292 (iv) A county attorney or the attorney general of the state shall provide legal assistance  
3293 and advice to the director in an action to collect a penalty.

3294 (v) A court shall award reasonable attorney fees and costs to the prevailing party in an  
3295 action brought by the division to collect a penalty.

3296 (b) Any person who knowingly and intentionally violates Subsections (7)(h) through (j)  
3297 or Subsection (10) is:

3298 (i) upon first conviction, guilty of a class B misdemeanor;

3299 (ii) upon second conviction, guilty of a class A misdemeanor; and

3300 (iii) on third or subsequent conviction, guilty of a third degree felony.

3301 (c) Any person who knowingly and intentionally violates Subsections (7)(k) through  
3302 (o) shall upon conviction be guilty of a third degree felony.

3303 (9) Any information communicated to any licensed practitioner in an attempt to  
3304 unlawfully procure, or to procure the administration of, a controlled substance is not considered  
3305 to be a privileged communication.

3306 (10) A person holding a valid license under this chapter who is engaged in medical  
3307 research may produce, possess, administer, prescribe, or dispense a controlled substance for  
3308 research purposes as licensed under Subsection (2) but may not otherwise prescribe or dispense  
3309 a controlled substance listed in Section 58-37-4.2.

3310 Section 56. Section 58-41-4 is amended to read:

3311 **58-41-4. Exemptions from chapter.**

3312 (1) In addition to the exemptions from licensure in Section 58-1-307, the following  
3313 persons may engage in the practice of speech-language pathology and audiology subject to the

3314 stated circumstances and limitations without being licensed under this chapter:

3315 (a) a qualified person licensed in this state under any law existing in this state prior to  
3316 May 13, 1975, [~~from~~] engaging in the profession for which he is licensed;

3317 (b) a medical doctor, physician, physician assistant, or surgeon licensed in this state,  
3318 [~~from~~] engaging in his or her specialty in the practice of medicine;

3319 (c) a hearing aid dealer or salesman from selling, fitting, adjusting, and repairing  
3320 hearing aids, and conducting hearing tests solely for that purpose. However, a hearing aid  
3321 dealer may not conduct audiologic testing on persons under the age of 18 years except under  
3322 the direct supervision of an audiologist licensed under this chapter;

3323 (d) a person who has obtained a valid and current credential issued by the State Board  
3324 of Education while performing specifically the functions of a speech-language pathologist or  
3325 audiologist, in no way in his own interest, solely within the confines of and under the direction  
3326 and jurisdiction of and only in the academic interest of the schools by which employed in this  
3327 state;

3328 (e) a person employed as a speech-language pathologist or audiologist by federal  
3329 government agencies or subdivisions or, prior to July 1, 1989, by state or local government  
3330 agencies or subdivisions, while specifically performing speech-language pathology or  
3331 audiology services in no way in his own interest, solely within the confines of and under the  
3332 direction and jurisdiction of and in the specific interest of that agency or subdivision;

3333 (f) a person identified in Subsections (1)(d) and (e) may offer lectures for a fee, or  
3334 monetary or other compensation, without being licensed; however, such person may elect to be  
3335 subject to the requirements of this chapter;

3336 (g) a person employed by accredited colleges or universities as a speech-language  
3337 pathologist or audiologist from performing the services or functions described in this chapter  
3338 when they are:

3339 (i) performed solely as an assigned teaching function of employment;

3340 (ii) solely in academic interest and pursuit as a function of that employment;

3341 (iii) in no way for their own interest; and

3342 (iv) provided for no fee, monetary or otherwise, other than their agreed institutional  
3343 salary;

3344 (h) a person pursuing a course of study leading to a degree in speech-language

3345 pathology or audiology while enrolled in an accredited college or university, provided those  
3346 activities constitute an assigned, directed, and supervised part of his curricular study, and in no  
3347 other interest, and that all examinations, tests, histories, charts, progress notes, reports,  
3348 correspondence, and all documents and records which he produces be identified clearly as  
3349 having been conducted and prepared by a student in training and that such a person is  
3350 obviously identified and designated by appropriate title clearly indicating the training status  
3351 and provided that he does not hold himself out directly or indirectly as being qualified to  
3352 practice independently;

3353 (i) a person trained in elementary audiometry and qualified to perform basic  
3354 audiometric tests while employed by a licensed medical doctor to perform solely for him while  
3355 under his direct supervision, the elementary conventional audiometric tests of air conduction  
3356 screening, air conduction threshold testing, and tympanometry;

3357 (j) a person while performing as a speech-language pathologist or audiologist for the  
3358 purpose of obtaining required professional experience under the provisions of this chapter, if he  
3359 meets all training requirements and is professionally responsible to and under the supervision  
3360 of a speech-language pathologist or audiologist who holds the CCC or a state license in  
3361 speech-language pathology or audiology. This provision is applicable only during the time that  
3362 person is obtaining the required professional experience;

3363 (k) a corporation, partnership, trust, association, group practice, or like organization  
3364 engaging in speech-language pathology or audiology services without certification or license, if  
3365 it acts only through employees or consists only of persons who are licensed under this chapter;

3366 (l) performance of speech-language pathology or audiology services in this state by a  
3367 speech-language pathologist or audiologist who is not a resident of this state and is not licensed  
3368 under this chapter if those services are performed for no more than one month in any calendar  
3369 year in association with a speech-language pathologist or audiologist licensed under this  
3370 chapter, and if that person meets the qualifications and requirements for application for  
3371 licensure described in Section 58-41-5; and

3372 (m) a person certified under Title 53E, Public Education System -- State  
3373 Administration, as a teacher of the deaf, from providing the services or performing the  
3374 functions he is certified to perform.

3375 (2) No person is exempt from the requirements of this chapter who performs or

3376 provides any services as a speech-language pathologist or audiologist for which a fee, salary,  
3377 bonus, gratuity, or compensation of any kind paid by the recipient of the service; or who  
3378 engages any part of his professional work for a fee practicing in conjunction with, by  
3379 permission of, or apart from his position of employment as speech-language pathologist or  
3380 audiologist in any branch or subdivision of local, state, or federal government or as otherwise  
3381 identified in this section.

3382 Section 57. Section **58-46a-305** is amended to read:

3383 **58-46a-305. Exemptions from licensure.**

3384 In addition to the exemptions from licensure in Section **58-1-307**, the following persons  
3385 may engage in acts and practices included within the definition of practice as a hearing  
3386 instrument specialist or hearing instrument intern, subject to their professional licensure  
3387 authorization and restrictions, without being licensed under this chapter:

3388 (1) an audiologist licensed under the provisions of [~~Title 58,~~] Chapter 41,  
3389 Speech-Language Pathology and Audiology Licensing Act; [~~and~~]

3390 (2) a physician and surgeon licensed under the provisions of [~~Title 58,~~] Chapter 67,  
3391 Utah Medical Practice Act, or osteopathic physician licensed under the provisions of [~~Title 58,~~]  
3392 Chapter 68, Utah Osteopathic Medical Practice Act[~~;~~]; and

3393 (3) a physician assistant licensed under the provisions of Chapter 70a, Utah Physician  
3394 Assistant Act.

3395 Section 58. Section **58-46a-502** is amended to read:

3396 **58-46a-502. Additional requirements for practicing as a hearing instrument**  
3397 **specialist.**

3398 A person engaging in the practice of a hearing instrument specialist shall:

3399 (1) have a regular place or places of business from which the person conducts business  
3400 as a hearing instrument specialist and the place or places of business shall be represented to a  
3401 patient and others with whom business is conducted by the street address at which the place of  
3402 business is located;

3403 (2) include in all advertising or other representation the street address at which the  
3404 business is located and the telephone number of the business at that street address;

3405 (3) provide as part of each transaction between a licensee and a patient related to  
3406 testing for hearing loss and selling of a hearing instrument written documentation provided to

3407 the patient that includes:

3408 (a) identification of all services and products provided to the patient by the hearing  
3409 instrument specialist and the charges for each service or product;

3410 (b) a statement whether any hearing instrument provided to a patient is "new," "used,"  
3411 or "reconditioned" and the terms and conditions of any warranty or guarantee that applies to  
3412 each instrument; and

3413 (c) the identity and license number of each hearing instrument specialist or hearing  
3414 instrument intern who provided services or products to the patient;

3415 (4) before providing services or products to a patient:

3416 (a) advise the patient regarding services and products offered to the patient, including  
3417 the expected results of the services and products;

3418 (b) inform each patient who is being offered a hearing instrument about hearing  
3419 instruments that work with assistive listening systems that are compliant with the ADA  
3420 Standards for Accessible Design adopted by the United States Department of Justice in  
3421 accordance with the Americans with Disabilities Act, 42 U.S.C. Sec. 12101 et seq.; and

3422 (c) obtain written informed consent from the patient regarding offered services,  
3423 products, and the expected results of the services and products in a form approved by the  
3424 division in collaboration with the board;

3425 (5) refer all individuals under the age of 18 who seek testing of hearing to a physician  
3426 or surgeon, osteopathic physician, physician assistant, or audiologist, licensed under the  
3427 provisions of [~~Title 58, Occupations and Professions~~] this title, and shall dispense a hearing aid  
3428 to that individual only on prescription of a physician or surgeon, osteopathic physician,  
3429 physician assistant, or audiologist;

3430 (6) obtain the patient's informed consent and agreement to purchase the hearing  
3431 instrument based on that informed consent either by the hearing instrument specialist or the  
3432 hearing instrument intern, before designating an appropriate hearing instrument; and

3433 (7) if a hearing instrument does not substantially enhance the patient's hearing  
3434 consistent with the representations of the hearing instrument specialist at the time informed  
3435 consent was given prior to the sale and fitting of the hearing instrument, provide:

3436 (a) necessary intervention to produce satisfactory hearing recovery results consistent  
3437 with representations made; or

3438 (b) for the refund of fees paid by the patient for the hearing instrument to the hearing  
3439 instrument specialist within a reasonable time after finding that the hearing instrument does not  
3440 substantially enhance the patient's hearing.

3441 Section 59. Section **58-47b-304** is amended to read:

3442 **58-47b-304. Exemptions from licensure.**

3443 (1) In addition to the exemptions from licensure in Section **58-1-307**, the following  
3444 individuals may engage in the practice of massage therapy as defined under this chapter,  
3445 subject to the stated circumstances and limitations, without being licensed, but may not  
3446 represent themselves as a massage therapist or massage apprentice:

3447 (a) a physician or surgeon licensed under [~~Title 58;~~] Chapter 67, Utah Medical Practice  
3448 Act;

3449 (b) a physician assistant licensed under Chapter 70a, Utah Physician Assistant Act;

3450 [~~(b)~~] (c) a nurse licensed under [~~Title 58;~~] Chapter 31b, Nurse Practice Act, or under  
3451 [~~Title 58;~~] Chapter 44a, Nurse Midwife Practice Act;

3452 [~~(c)~~] (d) a physical therapist licensed under [~~Title 58;~~] Chapter 24b, Physical Therapy  
3453 Practice Act;

3454 [~~(d)~~] (e) a physical therapist assistant licensed under [~~Title 58;~~] Chapter 24b, Physical  
3455 Therapy Practice Act, while under the general supervision of a physical therapist;

3456 [~~(e)~~] (f) an osteopathic physician or surgeon licensed under [~~Title 58;~~] Chapter 68, Utah  
3457 Osteopathic Medical Practice Act;

3458 [~~(f)~~] (g) a chiropractic physician licensed under [~~Title 58;~~] Chapter 73, Chiropractic  
3459 Physician Practice Act;

3460 [~~(g)~~] (h) a hospital staff member employed by a hospital, who practices massage as part  
3461 of the staff member's responsibilities;

3462 [~~(h)~~] (i) an athletic trainer licensed under [~~Title 58;~~] Chapter 40a, Athletic Trainer  
3463 Licensing Act;

3464 [~~(i)~~] (j) a student in training enrolled in a massage therapy school approved by the  
3465 division;

3466 [~~(j)~~] (k) a naturopathic physician licensed under [~~Title 58;~~] Chapter 71, Naturopathic  
3467 Physician Practice Act;

3468 [~~(k)~~] (l) an occupational therapist licensed under [~~Title 58;~~] Chapter 42a, Occupational

3469 Therapy Practice Act;

3470 ~~[(†)]~~ (m) an individual performing gratuitous massage; and

3471 ~~[(m)]~~ (n) an individual:

3472 (i) certified by or through, and in good standing with, an industry organization that is  
3473 recognized by the division, and that represents a profession with established standards and  
3474 ethics;

3475 (ii) (A) who limits the manipulation of the soft tissues of the body to the hands, feet,  
3476 and outer ears only, including the practice of reflexology and foot zone therapy; or

3477 (B) who is certified to practice ortho-bionomy and whose practice is limited to the  
3478 scope of practice of ortho-bionomy;

3479 (iii) whose clients remain fully clothed from the shoulders to the knees; and

3480 (iv) whose clients do not receive gratuitous massage from the individual.

3481 (2) This chapter may not be construed to authorize any individual licensed under this  
3482 chapter to engage in any manner in the practice of medicine as defined by the laws of this state.

3483 (3) This chapter may not be construed to:

3484 (a) require insurance coverage or reimbursement for massage therapy from third party  
3485 payors; or

3486 (b) prevent an insurance carrier from offering coverage for massage therapy.

3487 Section 60. Section **58-60-102** is amended to read:

3488 **58-60-102. Definitions.**

3489 In addition to the definitions in Section **58-1-102**, as used in this chapter:

3490 (1) "Client" or "patient" means an individual who consults or is examined or  
3491 interviewed by an individual licensed under this chapter who is acting in the individual's  
3492 professional capacity.

3493 (2) "Confidential communication" means information obtained by an individual  
3494 licensed under this chapter, including information obtained by the individual's examination of  
3495 the client or patient, which is:

3496 (a) (i) transmitted between the client or patient and an individual licensed under this  
3497 chapter in the course of that relationship; or

3498 (ii) transmitted among the client or patient, an individual licensed under this chapter,  
3499 and individuals who are participating in the diagnosis or treatment under the direction of an

3500 individual licensed under this chapter, including members of the client's or patient's family; and

3501 (b) made in confidence, for the diagnosis or treatment of the client or patient by the  
3502 individual licensed under this chapter, and by a means not intended to be disclosed to third  
3503 persons other than those individuals:

3504 (i) present to further the interest of the client or patient in the consultation,  
3505 examination, or interview;

3506 (ii) reasonably necessary for the transmission of the communications; or

3507 (iii) participating in the diagnosis and treatment of the client or patient under the  
3508 direction of the mental health therapist.

3509 (3) "Hypnosis" means, when referring to individuals exempted from licensure under  
3510 this chapter, a process by which an individual induces or assists another individual into a  
3511 hypnotic state without the use of drugs or other substances and for the purpose of increasing  
3512 motivation or to assist the individual to alter lifestyles or habits.

3513 (4) "Individual" means a natural person.

3514 (5) "Mental health therapist" means an individual who is practicing within the scope of  
3515 practice defined in the individual's respective licensing act and is licensed under this title as:

3516 (a) a physician and surgeon, physician assistant, or osteopathic physician engaged in  
3517 the practice of mental health therapy;

3518 (b) an advanced practice registered nurse, specializing in psychiatric mental health  
3519 nursing;

3520 (c) an advanced practice registered nurse intern, specializing in psychiatric mental  
3521 health nursing;

3522 (d) a psychologist qualified to engage in the practice of mental health therapy;

3523 (e) a certified psychology resident qualifying to engage in the practice of mental health  
3524 therapy;

3525 (f) a clinical social worker;

3526 (g) a certified social worker;

3527 (h) a marriage and family therapist;

3528 (i) an associate marriage and family therapist;

3529 (j) a clinical mental health counselor; or

3530 (k) an associate clinical mental health counselor.

3531 (6) "Mental illness" means a mental or emotional condition defined in an approved  
3532 diagnostic and statistical manual for mental disorders generally recognized in the professions of  
3533 mental health therapy listed under Subsection (5).

3534 (7) "Practice of mental health therapy" means treatment or prevention of mental illness,  
3535 whether in person or remotely, including:

3536 (a) conducting a professional evaluation of an individual's condition of mental health,  
3537 mental illness, or emotional disorder consistent with standards generally recognized in the  
3538 professions of mental health therapy listed under Subsection (5);

3539 (b) establishing a diagnosis in accordance with established written standards generally  
3540 recognized in the professions of mental health therapy listed under Subsection (5);

3541 (c) prescribing a plan for the prevention or treatment of a condition of mental illness or  
3542 emotional disorder; and

3543 (d) engaging in the conduct of professional intervention, including psychotherapy by  
3544 the application of established methods and procedures generally recognized in the professions  
3545 of mental health therapy listed under Subsection (5).

3546 (8) "Remotely" means communicating via Internet, telephone, or other electronic  
3547 means that facilitate real-time audio or visual interaction between individuals when they are not  
3548 physically present in the same room at the same time.

3549 (9) "Unlawful conduct" is as defined in Sections [58-1-501](#) and [58-60-109](#).

3550 (10) "Unprofessional conduct" is as defined in Sections [58-1-501](#) and [58-60-110](#), and  
3551 may be further defined by division rule.

3552 Section 61. Section [58-60-107](#) is amended to read:

3553 **[58-60-107. Exemptions from licensure.](#)**

3554 (1) Except as modified in Section [58-60-103](#), the exemptions from licensure in Section  
3555 [58-1-307](#) apply to this chapter.

3556 (2) In addition to the exemptions from licensure in Section [58-1-307](#), the following  
3557 may engage in acts included within the definition of practice as a mental health therapist,  
3558 subject to the stated circumstances and limitations, without being licensed under this chapter:

3559 (a) the following when practicing within the scope of the license held:

3560 (i) a physician and surgeon or osteopathic physician and surgeon licensed under  
3561 Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act;

3562 (ii) a physician assistant licensed under Chapter 70a, Utah Physician Assistant Act;  
3563 ~~[(ii)]~~ (iii) an advanced practice registered nurse, specializing in psychiatric mental  
3564 health nursing, licensed under Chapter 31b, Nurse Practice Act; and  
3565 ~~[(iii)]~~ (iv) a psychologist licensed under Chapter 61, Psychologist Licensing Act;  
3566 (b) a recognized member of the clergy while functioning in a ministerial capacity as  
3567 long as the member of the clergy does not represent that the member of the clergy is, or use the  
3568 title of, a license classification in Subsection 58-60-102(5);  
3569 (c) an individual who is offering expert testimony in a proceeding before a court,  
3570 administrative hearing, deposition upon the order of a court or other body having power to  
3571 order the deposition, or a proceeding before a master, referee, or alternative dispute resolution  
3572 provider;  
3573 (d) an individual engaged in performing hypnosis who is not licensed under this title in  
3574 a profession which includes hypnosis in its scope of practice, and who:  
3575 (i) (A) induces a hypnotic state in a client for the purpose of increasing motivation or  
3576 altering lifestyles or habits, such as eating or smoking, through hypnosis;  
3577 (B) consults with a client to determine current motivation and behavior patterns;  
3578 (C) prepares the client to enter hypnotic states by explaining how hypnosis works and  
3579 what the client will experience;  
3580 (D) tests clients to determine degrees of suggestibility;  
3581 (E) applies hypnotic techniques based on interpretation of consultation results and  
3582 analysis of client's motivation and behavior patterns; and  
3583 (F) trains clients in self-hypnosis conditioning;  
3584 (ii) may not:  
3585 (A) engage in the practice of mental health therapy;  
3586 (B) use the title of a license classification in Subsection 58-60-102(5); or  
3587 (C) use hypnosis with or treat a medical, psychological, or dental condition defined in  
3588 generally recognized diagnostic and statistical manuals of medical, psychological, or dental  
3589 disorders;  
3590 (e) an individual's exemption from licensure under Subsection 58-1-307(1)(b)  
3591 terminates when the student's training is no longer supervised by qualified faculty or staff and  
3592 the activities are no longer a defined part of the degree program;

3593 (f) an individual holding an earned doctoral degree or master's degree in social work,  
3594 marriage and family therapy, or clinical mental health counseling, who is employed by an  
3595 accredited institution of higher education and who conducts research and teaches in that  
3596 individual's professional field, but only if the individual does not engage in providing or  
3597 supervising professional services regulated under this chapter to individuals or groups  
3598 regardless of whether there is compensation for the services;

3599 (g) an individual in an on-the-job training program approved by the division while  
3600 under the supervision of qualified persons;

3601 (h) an individual providing general education in the subjects of alcohol, drug use, or  
3602 substance use disorders, including prevention;

3603 (i) an individual providing advice or counsel to another individual in a setting of their  
3604 association as friends or relatives and in a nonprofessional and noncommercial relationship, if  
3605 there is no compensation paid for the advice or counsel; and

3606 (j) an individual who is licensed, in good standing, to practice mental health therapy or  
3607 substance use disorder counseling in a state or territory of the United States outside of Utah  
3608 may provide short term transitional mental health therapy remotely or short term transitional  
3609 substance use disorder counseling remotely to a client in Utah only if:

3610 (i) the individual is present in the state or territory where the individual is licensed to  
3611 practice mental health therapy or substance use disorder counseling;

3612 (ii) the client relocates to Utah;

3613 (iii) the client is a client of the individual immediately before the client relocates to  
3614 Utah;

3615 (iv) the individual provides the short term transitional mental health therapy or short  
3616 term transitional substance use disorder counseling remotely to the client only during the 45  
3617 day period beginning on the day on which the client relocates to Utah;

3618 (v) within 10 days after the day on which the client relocates to Utah, the individual  
3619 provides written notice to the division of the individual's intent to provide short term  
3620 transitional mental health therapy or short term transitional substance use disorder counseling  
3621 remotely to the client; and

3622 (vi) the individual does not engage in unlawful conduct or unprofessional conduct.

3623 Section 62. Section **58-61-102** is amended to read:

3624 **58-61-102. Definitions.**

3625 In addition to the definitions in Section 58-1-102, as used in this chapter:

3626 (1) "Board" means the Psychologist Licensing Board created in Section 58-61-201.

3627 (2) "Client" or "patient" means an individual who consults or is examined or  
3628 interviewed by a psychologist acting in his professional capacity.

3629 (3) "Confidential communication" means information, including information obtained  
3630 by the psychologist's examination of the client or patient, which is:

3631 (a) (i) transmitted between the client or patient and a psychologist in the course of that  
3632 relationship; or

3633 (ii) transmitted among the client or patient, the psychologist, and individuals who are  
3634 participating in the diagnosis or treatment under the direction of the psychologist, including  
3635 members of the client's or patient's family; and

3636 (b) made in confidence, for the diagnosis or treatment of the client or patient by the  
3637 psychologist, and by a means not intended to be disclosed to third persons other than those  
3638 individuals:

3639 (i) present to further the interest of the client or patient in the consultation,  
3640 examination, or interview;

3641 (ii) reasonably necessary for the transmission of the communications; or

3642 (iii) participating in the diagnosis and treatment of the client or patient under the  
3643 direction of the psychologist.

3644 (4) "Hypnosis" means, regarding individuals exempted from licensure under this  
3645 chapter, a process by which one individual induces or assists another individual into a hypnotic  
3646 state without the use of drugs or other substances and for the purpose of increasing motivation  
3647 or to assist the individual to alter lifestyles or habits.

3648 (5) "Individual" means a natural person.

3649 (6) "Mental health therapist" means an individual licensed under this title as a:

3650 (a) physician and surgeon, physician assistant, or osteopathic physician engaged in the  
3651 practice of mental health therapy;

3652 (b) an advanced practice registered nurse, specializing in psychiatric mental health  
3653 nursing;

3654 (c) an advanced practice registered nurse intern, specializing in psychiatric mental

- 3655 health nursing;
- 3656 (d) psychologist qualified to engage in the practice of mental health therapy;
- 3657 (e) a certified psychology resident qualifying to engage in the practice of mental health
- 3658 therapy;
- 3659 (f) clinical social worker;
- 3660 (g) certified social worker;
- 3661 (h) marriage and family therapist;
- 3662 (i) an associate marriage and family therapist;
- 3663 (j) a clinical mental health counselor; or
- 3664 (k) an associate clinical mental health counselor.
- 3665 (7) "Mental illness" means a mental or emotional condition defined in an approved
- 3666 diagnostic and statistical manual for mental disorders generally recognized in the professions of
- 3667 mental health therapy listed under Subsection (6).
- 3668 (8) "Practice of mental health therapy" means the treatment or prevention of mental
- 3669 illness, whether in person or remotely, including:
- 3670 (a) conducting a professional evaluation of an individual's condition of mental health,
- 3671 mental illness, or emotional disorder;
- 3672 (b) establishing a diagnosis in accordance with established written standards generally
- 3673 recognized in the professions of mental health therapy listed under Subsection (6);
- 3674 (c) prescribing a plan for the prevention or treatment of a condition of mental illness or
- 3675 emotional disorder; and
- 3676 (d) engaging in the conduct of professional intervention, including psychotherapy by
- 3677 the application of established methods and procedures generally recognized in the professions
- 3678 of mental health therapy listed under Subsection (6).
- 3679 (9) (a) "Practice of psychology" includes:
- 3680 (i) the practice of mental health therapy by means of observation, description,
- 3681 evaluation, interpretation, intervention, and treatment to effect modification of human behavior
- 3682 by the application of generally recognized professional psychological principles, methods, and
- 3683 procedures for the purpose of preventing, treating, or eliminating mental or emotional illness or
- 3684 dysfunction, the symptoms of any of these, or maladaptive behavior;
- 3685 (ii) the observation, description, evaluation, interpretation, or modification of human

3686 behavior by the application of generally recognized professional principles, methods, or  
3687 procedures requiring the education, training, and clinical experience of a psychologist, for the  
3688 purpose of assessing, diagnosing, preventing, or eliminating symptomatic, maladaptive, or  
3689 undesired behavior and of enhancing interpersonal relationships, work and life adjustment,  
3690 personal effectiveness, behavioral health, and mental health;

3691 (iii) psychological testing and the evaluation or assessment of personal characteristics  
3692 such as intelligence, personality, abilities, interests, aptitudes, and neuropsychological  
3693 functioning;

3694 (iv) counseling, marriage and family therapy, psychoanalysis, psychotherapy, hypnosis,  
3695 and behavior analysis and therapy;

3696 (v) diagnosis and treatment of mental and emotional disorders of disability, alcoholism  
3697 and substance abuse, disorders of habit or conduct, and the psychological aspects of physical  
3698 illness, accident, injury, or disability; and

3699 (vi) psychoeducational evaluation, therapy, remediation, and consultation.

3700 (b) An individual practicing psychology may provide services to individuals, couples,  
3701 families, groups of individuals, members of the public, and individuals or groups within  
3702 organizations or institutions.

3703 (10) "Remotely" means communicating via Internet, telephone, or other electronic  
3704 means that facilitate real-time audio or visual interaction between individuals when they are not  
3705 physically present in the same room at the same time.

3706 (11) "Unlawful conduct" is as defined in Sections [58-1-501](#) and [58-61-501](#).

3707 (12) "Unprofessional conduct" is as defined in Sections [58-1-501](#) and [58-61-502](#), and  
3708 may be further defined by division rule.

3709 Section 63. Section **58-70a-101** is amended to read:

3710 **CHAPTER 70a. UTAH PHYSICIAN ASSISTANT ACT**

3711 **58-70a-101. Title.**

3712 This chapter is known as the "Utah Physician Assistant Act."

3713 Section 64. Section **58-70a-201** is amended to read:

3714 **58-70a-201. Board.**

3715 (1) There is created the Physician Assistant Licensing Board, which consists of seven  
3716 members:

3717 (a) [~~three~~ two] licensed physicians[~~;, at least two of whom are individuals~~] who are  
3718 supervising or who have supervised a physician assistant;

3719 (b) [~~three~~ four] physician assistants, one of whom is involved in the administration of  
3720 an approved physician assistant education program within the state; and

3721 (c) one person from the general public.

3722 (2) The board shall be appointed and serve in accordance with Section 58-1-201.

3723 (3) The duties and responsibilities of the board are in accordance with Sections  
3724 58-1-202 and 58-1-203. In addition, the board shall designate one of its members on a  
3725 permanent or rotating basis to:

3726 (a) assist the division in reviewing complaints concerning the unlawful or  
3727 unprofessional conduct of a licensee; and

3728 (b) advise the division in its investigation of these complaints.

3729 (4) A board member who has, under Subsection (3), reviewed a complaint or advised  
3730 in its investigation may be disqualified from participating with the board when the board serves  
3731 as a presiding officer in an adjudicative proceeding concerning the complaint. The board  
3732 member may be disqualified:

3733 (a) on the member's own motion, due to actual or perceived bias or lack of objectivity;  
3734 or

3735 (b) upon challenge for cause raised on the record by any party to the adjudicative  
3736 proceeding.

3737 Section 65. Section 58-75-304 is amended to read:

3738 **58-75-304. Exemptions from licensure.**

3739 In addition to the exemptions from licensure set forth in Section 58-1-307, the  
3740 following persons may engage in the practice of genetic counseling subject to the stated  
3741 circumstances and limitations without being licensed under this chapter:

3742 (1) an individual licensed as a physician and surgeon or osteopathic physician and  
3743 surgeon under Chapter 67, Utah Medical Practice Act, and Chapter 68, Utah Osteopathic  
3744 Medical Practice Act; [~~and~~]

3745 (2) a commissioned physician or surgeon serving in the armed forces of the United  
3746 States or other federal agency[~~;~~]; and

3747 (3) an individual licensed as a physician assistant under Chapter 70a, Utah Physician

3748 Assistant Act.

3749 Section 66. Section **62A-4a-406** is amended to read:

3750 **62A-4a-406. Photographs.**

3751 (1) Any physician, surgeon, physician assistant, medical examiner, peace officer, law  
3752 enforcement official, or public health officer or official may take photographs of the areas of  
3753 trauma visible on a child and, if medically indicated, perform radiological examinations.

3754 (2) Photographs may be taken of the premises or of objects relevant to a reported  
3755 circumstance of abuse or neglect.

3756 (3) Photographs or X-rays, and all other medical records pertinent to an investigation  
3757 for abuse or neglect shall be made available to the division, law enforcement officials, and the  
3758 court.

3759 Section 67. Section **62A-4a-407** is amended to read:

3760 **62A-4a-407. Protective custody.**

3761 (1) A physician or physician assistant examining or treating a child may take the child  
3762 into protective custody not to exceed 72 hours, without the consent of the child's parent,  
3763 guardian, or any other person responsible for the child's care or exercising temporary or  
3764 permanent control over the child, when the physician or physician assistant has reason to  
3765 believe that the child's life or safety will be in danger unless protective custody is exercised.

3766 (2) The person in charge of a hospital or similar medical facility may retain protective  
3767 custody of a child suspected of being abused or neglected, when he reasonably believes the  
3768 facts warrant that retention. This action may be taken regardless of whether additional medical  
3769 treatment is required, and regardless of whether the person responsible for the child's care  
3770 requests the child's return.

3771 (3) The division shall be immediately notified of protective custody exercised under  
3772 this section. Protective custody under this section may not exceed 72 hours without an order of  
3773 the district or juvenile court.

3774 (4) A person who takes a child into, or retains a child in, protective custody under this  
3775 section shall document:

3776 (a) the grounds upon which the child was taken into, or retained in, protective custody;  
3777 and

3778 (b) the nature of, and necessity for, any medical care or treatment provided to the child.

3779 Section 68. Section **62A-5-311** is amended to read:

3780 **62A-5-311. Temporary emergency commitment -- Observation and evaluation.**

3781 (1) The director of the division or his designee may temporarily commit an individual  
3782 to the division and therefore, as a matter of course, to an intermediate care facility for people  
3783 with an intellectual disability for observation and evaluation upon:

3784 (a) written application by a responsible person who has reason to know that the  
3785 individual is in need of commitment, stating:

3786 (i) a belief that the individual has an intellectual disability and is likely to cause serious  
3787 injury to self or others if not immediately committed;

3788 (ii) personal knowledge of the individual's condition; and

3789 (iii) the circumstances supporting that belief; or

3790 (b) certification by a licensed physician, physician assistant, or designated intellectual  
3791 disability professional stating that the physician, physician assistant, or designated intellectual  
3792 disability professional:

3793 (i) has examined the individual within a three-day period immediately preceding the  
3794 certification; and

3795 (ii) is of the opinion that the individual has an intellectual disability, and that because  
3796 of the individual's intellectual disability is likely to injure self or others if not immediately  
3797 committed.

3798 (2) If the individual in need of commitment is not placed in the custody of the director  
3799 or the director's designee by the person submitting the application, the director's or the  
3800 director's designee may certify, either in writing or orally that the individual is in need of  
3801 immediate commitment to prevent injury to self or others.

3802 (3) Upon receipt of the application required by Subsection (1)(a) and the certifications  
3803 required by Subsections (1)(b) and (2), a peace officer may take the individual named in the  
3804 application and certificates into custody, and may transport the individual to a designated  
3805 intermediate care facility for people with an intellectual disability.

3806 (4) (a) An individual committed under this section may be held for a maximum of 24  
3807 hours, excluding Saturdays, Sundays, and legal holidays. At the expiration of that time, the  
3808 individual shall be released unless proceedings for involuntary commitment have been  
3809 commenced under Section [62A-5-312](#).

3810 (b) After proceedings for involuntary commitment have been commenced the  
3811 individual shall be released unless an order of detention is issued in accordance with Section  
3812 [62A-5-312](#).

3813 (5) If an individual is committed to the division under this section on the application of  
3814 any person other than the individual's legal guardian, spouse, parent, or next of kin, the director  
3815 or his designee shall immediately give notice of the commitment to the individual's legal  
3816 guardian, spouse, parent, or next of kin, if known.

3817 Section 69. Section **62A-5-312** is amended to read:

3818 **62A-5-312. Involuntary commitment -- Procedures -- Necessary findings**  
3819 **-- Periodic review.**

3820 (1) Any responsible person who has reason to know that an individual is in need of  
3821 commitment, who has a belief that the individual has an intellectual disability, and who has  
3822 personal knowledge of the conditions and circumstances supporting that belief, may commence  
3823 proceedings for involuntary commitment by filing a written petition with the district court, or if  
3824 the subject of the petition is less than 18 years of age with the juvenile court, of the county in  
3825 which the individual to be committed is physically located at the time the petition is filed. The  
3826 application shall be accompanied by:

3827 (a) a certificate of a licensed physician, physician assistant, or a designated intellectual  
3828 disability professional, stating that within a seven-day period immediately preceding the  
3829 certification, the physician, physician assistant, or designated intellectual disability professional  
3830 examined the individual and believes that the individual has an intellectual disability and is in  
3831 need of involuntary commitment; or

3832 (b) a written statement by the petitioner that:

3833 (i) states that the individual was requested to, but refused to, submit to an examination  
3834 for an intellectual disability by a licensed physician, physician assistant, or designated  
3835 intellectual disability professional, and that the individual refuses to voluntarily go to the  
3836 division or an intermediate care facility for people with an intellectual disability recommended  
3837 by the division for treatment;

3838 (ii) is under oath; and

3839 (iii) sets forth the facts on which the statement is based.

3840 (2) Before issuing a detention order, the court may require the petitioner to consult

3841 with personnel at the division or at an intermediate care facility for people with an intellectual  
3842 disability and may direct a designated intellectual disability professional to interview the  
3843 petitioner and the individual to be committed, to determine the existing facts, and to report  
3844 them to the court.

3845 (3) The court may issue a detention order and may direct a peace officer to immediately  
3846 take the individual to an intermediate care facility for people with an intellectual disability to  
3847 be detained for purposes of an examination if the court finds from the petition, from other  
3848 statements under oath, or from reports of physicians, physician assistants, or designated  
3849 intellectual disability professionals that there is a reasonable basis to believe that the individual  
3850 to be committed:

3851 (a) poses an immediate danger of physical injury to self or others;

3852 (b) requires involuntary commitment pending examination and hearing;

3853 (c) the individual was requested but refused to submit to an examination by a licensed  
3854 physician, physician assistant, or designated intellectual disability professional; or

3855 (d) the individual refused to voluntarily go to the division or to an intermediate care  
3856 facility for people with an intellectual disability recommended by the division.

3857 (4) (a) If the court issues a detention order based on an application that did not include  
3858 a certification by a designated intellectual disability professional or physician, physician  
3859 assistant, in accordance with Subsection (1)(a), the director or his designee shall within 24  
3860 hours after issuance of the detention order, excluding Saturdays, Sundays, and legal holidays,  
3861 examine the individual, report the results of the examination to the court and inform the court:

3862 (i) whether the director or his designee believes that the individual has an intellectual  
3863 disability; and

3864 (ii) whether appropriate treatment programs are available and will be used by the  
3865 individual without court proceedings.

3866 (b) If the report of the director or his designee is based on an oral report of the  
3867 examiner, the examiner shall immediately send the results of the examination in writing to the  
3868 clerk of the court.

3869 (5) Immediately after an individual is involuntarily committed under a detention order  
3870 or under Section 62A-5-311, the director or his designee shall inform the individual, orally and  
3871 in writing, of his right to communicate with an attorney. If an individual desires to

3872 communicate with an attorney, the director or his designee shall take immediate steps to assist  
3873 the individual in contacting and communicating with an attorney.

3874 (6) (a) Immediately after commencement of proceedings for involuntary commitment,  
3875 the court shall give notice of commencement of the proceedings to:

- 3876 (i) the individual to be committed;
- 3877 (ii) the applicant;
- 3878 (iii) any legal guardian of the individual;
- 3879 (iv) adult members of the individual's immediate family;
- 3880 (v) legal counsel of the individual to be committed, if any;
- 3881 (vi) the division; and
- 3882 (vii) any other person to whom the individual requests, or the court designates, notice  
3883 to be given.

3884 (b) If an individual cannot or refuses to disclose the identity of persons to be notified,  
3885 the extent of notice shall be determined by the court.

3886 (7) That notice shall:

- 3887 (a) set forth the allegations of the petition and all supporting facts;
- 3888 (b) be accompanied by a copy of any detention order issued under Subsection (3); and
- 3889 (c) state that a hearing will be held within the time provided by law, and give the time  
3890 and place for that hearing.

3891 (8) The court may transfer the case and the custody of the individual to be committed  
3892 to any other district court within the state, if:

3893 (a) there are no appropriate facilities for persons with an intellectual disability within  
3894 the judicial district; and

3895 (b) the transfer will not be adverse to the interests of the individual.

3896 (9) (a) Within 24 hours, excluding Saturdays, Sundays, and legal holidays, after any  
3897 order or commitment under a detention order, the court shall appoint two designated  
3898 intellectual disability professionals to examine the individual. If requested by the individual's  
3899 counsel, the court shall appoint a reasonably available, qualified person designated by counsel  
3900 to be one of the examining designated intellectual disability professionals. The examinations  
3901 shall be conducted:

- 3902 (i) separately;

3903 (ii) at the home of the individual to be committed, a hospital, an intermediate care  
3904 facility for people with an intellectual disability, or any other suitable place not likely to have a  
3905 harmful effect on the individual; and

3906 (iii) within a reasonable period of time after appointment of the examiners by the court.

3907 (b) The court shall set a time for a hearing to be held within 10 court days of the  
3908 appointment of the examiners. However, the court may immediately terminate the proceedings  
3909 and dismiss the application if, prior to the hearing date, the examiners, the director, or his  
3910 designee informs the court that:

3911 (i) the individual does not have an intellectual disability; or

3912 (ii) treatment programs are available and will be used by the individual without court  
3913 proceedings.

3914 (10) (a) Each individual has the right to be represented by counsel at the commitment  
3915 hearing and in all preliminary proceedings. If neither the individual nor others provide counsel,  
3916 the court shall appoint counsel and allow sufficient time for counsel to consult with the  
3917 individual prior to any hearing.

3918 (b) If the individual is indigent, the county in which the individual was physically  
3919 located when taken into custody shall pay reasonable attorney fees as determined by the court.

3920 (11) The division or a designated intellectual disability professional in charge of the  
3921 individual's care shall provide all documented information on the individual to be committed  
3922 and to the court at the time of the hearing. The individual's attorney shall have access to all  
3923 documented information on the individual at the time of and prior to the hearing.

3924 (12) (a) The court shall provide an opportunity to the individual, the petitioner, and all  
3925 other persons to whom notice is required to be given to appear at the hearing, to testify, and to  
3926 present and cross-examine witnesses.

3927 (b) The court may, in its discretion:

3928 (i) receive the testimony of any other person;

3929 (ii) allow a waiver of the right to appear only for good cause shown;

3930 (iii) exclude from the hearing all persons not necessary to conduct the proceedings; and

3931 (iv) upon motion of counsel, require the testimony of each examiner to be given out of  
3932 the presence of any other examiner.

3933 (c) The hearing shall be conducted in as informal a manner as may be consistent with

3934 orderly procedure, and in a physical setting that is not likely to have a harmful effect on the  
3935 individual. The Utah Rules of Evidence apply, and the hearing shall be a matter of court  
3936 record. A verbatim record of the proceedings shall be maintained.

3937 (13) The court may order commitment if, upon completion of the hearing and  
3938 consideration of the record, it finds by clear and convincing evidence that all of the following  
3939 conditions are met:

3940 (a) the individual to be committed has an intellectual disability;

3941 (b) because of the individual's intellectual disability one or more of the following  
3942 conditions exist:

3943 (i) the individual poses an immediate danger of physical injury to self or others;

3944 (ii) the individual lacks the capacity to provide the basic necessities of life, such as  
3945 food, clothing, or shelter; or

3946 (iii) the individual is in immediate need of habilitation, rehabilitation, care, or  
3947 treatment to minimize the effects of the condition which poses a threat of serious physical or  
3948 psychological injury to the individual, and the individual lacks the capacity to engage in a  
3949 rational decision-making process concerning the need for habilitation, rehabilitation, care, or  
3950 treatment, as evidenced by an inability to weigh the possible costs and benefits of the care or  
3951 treatment and the alternatives to it;

3952 (c) there is no appropriate, less restrictive alternative reasonably available; and

3953 (d) the division or the intermediate care facility for people with an intellectual  
3954 disability recommended by the division in which the individual is to be committed can provide  
3955 the individual with treatment, care, habilitation, or rehabilitation that is adequate and  
3956 appropriate to the individual's condition and needs.

3957 (14) In the absence of any of the required findings by the court, described in Subsection  
3958 (13), the court shall dismiss the proceedings.

3959 (15) (a) The order of commitment shall designate the period for which the individual  
3960 will be committed. An initial commitment may not exceed six months. Before the end of the  
3961 initial commitment period, the administrator of the intermediate care facility for people with an  
3962 intellectual disability shall commence a review hearing on behalf of the individual.

3963 (b) At the conclusion of the review hearing, the court may issue an order of  
3964 commitment for up to a one-year period.

3965 (16) An individual committed under this part has the right to a rehearing, upon filing a  
3966 petition with the court within 30 days after entry of the court's order. If the petition for  
3967 rehearing alleges error or mistake in the court's findings, the court shall appoint one impartial  
3968 licensed physician and two impartial designated intellectual disability professionals who have  
3969 not previously been involved in the case to examine the individual. The rehearing shall, in all  
3970 other respects, be conducted in accordance with this part.

3971 (17) (a) The court shall maintain a current list of all individuals under its orders of  
3972 commitment. That list shall be reviewed in order to determine those patients who have been  
3973 under an order of commitment for the designated period.

3974 (b) At least two weeks prior to the expiration of the designated period of any  
3975 commitment order still in effect, the court that entered the original order shall inform the  
3976 director of the division of the impending expiration of the designated commitment period.

3977 (c) The staff of the division shall immediately:

3978 (i) reexamine the reasons upon which the order of commitment was based and report  
3979 the results of the examination to the court;

3980 (ii) discharge the resident from involuntary commitment if the conditions justifying  
3981 commitment no longer exist; and

3982 (iii) immediately inform the court of any discharge.

3983 (d) If the director of the division reports to the court that the conditions justifying  
3984 commitment no longer exist, and the administrator of the intermediate care facility for people  
3985 with an intellectual disability does not discharge the individual at the end of the designated  
3986 period, the court shall order the immediate discharge of the individual, unless involuntary  
3987 commitment proceedings are again commenced in accordance with this section.

3988 (e) If the director of the division, or the director's designee reports to the court that the  
3989 conditions designated in Subsection (13) still exist, the court may extend the commitment order  
3990 for up to one year. At the end of any extension, the individual must be reexamined in  
3991 accordance with this section, or discharged.

3992 (18) When a resident is discharged under this subsection, the division shall provide any  
3993 further support services available and required to meet the resident's needs.

3994 Section 70. Section **62A-15-301** is amended to read:

3995 **62A-15-301. Commitment of minor to secure drug or alcohol facility or program**

## 3996 -- Procedures -- Review.

3997 (1) For purposes of this part:

3998 (a) "Approved treatment facility or program" means a public or private secure,  
3999 inpatient facility or program that is licensed or operated by the department or by the  
4000 Department of Health to provide drug or alcohol treatment or rehabilitation.4001 (b) "Drug or alcohol addiction" means that the person has a physical or psychological  
4002 dependence on drugs or alcohol in a manner not prescribed by a physician or physician  
4003 assistant.4004 (2) The parent or legal guardian of a minor under the age of 18 years may submit that  
4005 child, without the child's consent, to an approved treatment facility or program for treatment or  
4006 rehabilitation of drug or alcohol addiction, upon application to a facility or program, and after a  
4007 careful diagnostic inquiry is made by a neutral and detached fact finder, in accordance with the  
4008 requirements of this section.

4009 (3) The neutral fact finder who conducts the inquiry:

4010 (a) shall be either a physician, physician assistant, psychologist, marriage and family  
4011 therapist, psychiatric and mental health nurse specialist, or social worker licensed to practice in  
4012 this state, who is trained and practicing in the area of substance abuse; and4013 (b) may not profit, financially or otherwise, from the commitment of the child and may  
4014 not be employed by the proposed facility or program.4015 (4) The review by a neutral fact finder may be conducted on the premises of the  
4016 proposed treatment facility or program.4017 (5) The inquiry conducted by the neutral fact finder shall include a private interview  
4018 with the child, and an evaluation of the child's background and need for treatment.4019 (6) The child may be committed to the approved treatment facility or program if it is  
4020 determined by the neutral fact finder that:4021 (a) the child is addicted to drugs or alcohol and because of that addiction poses a  
4022 serious risk of harm to himself or others;

4023 (b) the proposed treatment or rehabilitation is in the child's best interest; and

4024 (c) there is no less restrictive alternative that would be equally as effective, from a  
4025 clinical standpoint, as the proposed treatment facility or program.

4026 (7) Any approved treatment facility or program that receives a child under this section

4027 shall conduct a periodic review, at intervals not to exceed 30 days, to determine whether the  
4028 criteria described in Subsection (6) continue to exist.

4029 (8) A minor committed under this section shall be released from the facility or program  
4030 upon the request of his parent or legal guardian.

4031 (9) Commitment of a minor under this section terminates when the minor reaches the  
4032 age of 18 years.

4033 (10) Nothing in this section requires a program or facility to accept any person for  
4034 treatment or rehabilitation.

4035 (11) The parent or legal guardian who requests commitment of a minor under this  
4036 section is responsible to pay any fee associated with the review required by this section and any  
4037 necessary charges for commitment, treatment, or rehabilitation for a minor committed under  
4038 this section.

4039 (12) The child shall be released from commitment unless the report of the neutral fact  
4040 finder is submitted to the juvenile court within 72 hours of commitment and approved by the  
4041 court.

4042 Section 71. Section **62A-15-602** is amended to read:

4043 **62A-15-602. Definitions.**

4044 As used in this part, Part 7, Commitment of Persons Under Age 18 to Division of  
4045 Substance Abuse and Mental Health, Part 8, Interstate Compact on Mental Health, Part 9, Utah  
4046 Forensic Mental Health Facility, Part 10, Declaration for Mental Health Treatment, and Part  
4047 12, Essential Treatment and Intervention Act:

4048 (1) "Adult" means an individual 18 years of age or older.

4049 (2) "Approved treatment facility or program" means a treatment provider that meets the  
4050 standards described in Subsection **62A-15-103(2)(a)(v)**.

4051 (3) "Commitment to the custody of a local mental health authority" means that an adult  
4052 is committed to the custody of the local mental health authority that governs the mental health  
4053 catchment area where the adult resides or is found.

4054 (4) "Community mental health center" means an entity that provides treatment and  
4055 services to a resident of a designated geographical area, that operates by or under contract with  
4056 a local mental health authority, and that complies with state standards for community mental  
4057 health centers.

4058 (5) "Designated examiner" means:

4059 (a) a licensed physician, preferably a psychiatrist, who is designated by the division as  
4060 specially qualified by training or experience in the diagnosis of mental or related illness, or a  
4061 licensed physician assistant that works in collaboration with the physician; or

4062 (b) a licensed mental health professional designated by the division as specially  
4063 qualified by training and who has at least five years' continual experience in the treatment of  
4064 mental illness.

4065 (6) "Designee" means a physician who has responsibility for medical functions  
4066 including admission and discharge, an employee of a local mental health authority, or an  
4067 employee of a person that has contracted with a local mental health authority to provide mental  
4068 health services under Section [17-43-304](#).

4069 (7) "Essential treatment" and "essential treatment and intervention" mean court-ordered  
4070 treatment at a local substance abuse authority or an approved treatment facility or program for  
4071 the treatment of an adult's substance use disorder.

4072 (8) "Harmful sexual conduct" means the following conduct upon an individual without  
4073 the individual's consent, including the nonconsensual circumstances described in Subsections  
4074 [76-5-406](#)(1) through (12):

4075 (a) sexual intercourse;

4076 (b) penetration, however slight, of the genital or anal opening of the individual;

4077 (c) any sexual act involving the genitals or anus of the actor or the individual and the  
4078 mouth or anus of either individual, regardless of the gender of either participant; or

4079 (d) any sexual act causing substantial emotional injury or bodily pain.

4080 (9) "Institution" means a hospital or a health facility licensed under Section [26-21-8](#).

4081 (10) "Local substance abuse authority" means the same as that term is defined in  
4082 Section [62A-15-102](#) and described in Section [17-43-201](#).

4083 (11) "Mental health facility" means the Utah State Hospital or other facility that  
4084 provides mental health services under contract with the division, a local mental health  
4085 authority, a person that contracts with a local mental health authority, or a person that provides  
4086 acute inpatient psychiatric services to a patient.

4087 (12) "Mental health officer" means an individual who is designated by a local mental  
4088 health authority as qualified by training and experience in the recognition and identification of

4089 mental illness, to:

4090 (a) apply for and provide certification for a temporary commitment; or

4091 (b) assist in the arrangement of transportation to a designated mental health facility.

4092 (13) "Mental illness" means:

4093 (a) a psychiatric disorder that substantially impairs an individual's mental, emotional,  
4094 behavioral, or related functioning; or

4095 (b) the same as that term is defined in:

4096 (i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders  
4097 published by the American Psychiatric Association; or

4098 (ii) the current edition of the International Statistical Classification of Diseases and  
4099 Related Health Problems.

4100 (14) "Patient" means an individual who is:

4101 (a) under commitment to the custody or to the treatment services of a local mental  
4102 health authority; or

4103 (b) undergoing essential treatment and intervention.

4104 (15) "Physician" means an individual who is:

4105 (a) licensed as a physician under Title 58, Chapter 67, Utah Medical Practice Act; or

4106 (b) licensed as a physician under Title 58, Chapter 68, Utah Osteopathic Medical  
4107 Practice Act.

4108 (16) "Serious bodily injury" means bodily injury that involves a substantial risk of  
4109 death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or  
4110 protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

4111 (17) "Substantial danger" means that due to mental illness, an individual is at serious  
4112 risk of:

4113 (a) suicide;

4114 (b) serious bodily self-injury;

4115 (c) serious bodily injury because the individual is incapable of providing the basic  
4116 necessities of life, including food, clothing, or shelter;

4117 (d) causing or attempting to cause serious bodily injury to another individual; or

4118 (e) engaging in harmful sexual conduct.

4119 (18) "Treatment" means psychotherapy, medication, including the administration of

4120 psychotropic medication, or other medical treatments that are generally accepted medical or  
4121 psychosocial interventions for the purpose of restoring the patient to an optimal level of  
4122 functioning in the least restrictive environment.

4123 Section 72. Section **62A-15-629** is amended to read:

4124 **62A-15-629. Temporary commitment -- Requirements and procedures.**

4125 (1) An adult shall be temporarily, involuntarily committed to a local mental health  
4126 authority upon:

4127 (a) a written application that:

4128 (i) is completed by a responsible individual who has reason to know, stating a belief  
4129 that the adult, due to mental illness, is likely to pose substantial danger to self or others if not  
4130 restrained and stating the personal knowledge of the adult's condition or circumstances that  
4131 lead to the individual's belief; and

4132 (ii) includes a certification by a licensed physician, physician assistant, or designated  
4133 examiner stating that the physician, physician assistant, or designated examiner has examined  
4134 the adult within a three-day period immediately preceding that certification, and that the  
4135 physician, physician assistant, or designated examiner is of the opinion that, due to mental  
4136 illness, the adult poses a substantial danger to self or others; or

4137 (b) a peace officer or a mental health officer:

4138 (i) observing an adult's conduct that gives the peace officer or mental health officer  
4139 probable cause to believe that:

4140 (A) the adult has a mental illness; and

4141 (B) because of the adult's mental illness and conduct, the adult poses a substantial  
4142 danger to self or others; and

4143 (ii) completing a temporary commitment application that:

4144 (A) is on a form prescribed by the division;

4145 (B) states the peace officer's or mental health officer's belief that the adult poses a  
4146 substantial danger to self or others;

4147 (C) states the specific nature of the danger;

4148 (D) provides a summary of the observations upon which the statement of danger is  
4149 based; and

4150 (E) provides a statement of the facts that called the adult to the peace officer's or

4151 mental health officer's attention.

4152 (2) If at any time a patient committed under this section no longer meets the  
4153 commitment criteria described in Subsection (1), the local mental health authority or the local  
4154 mental health authority's designee shall document the change and release the patient.

4155 (3) A patient committed under this section may be held for a maximum of 24 hours  
4156 after commitment, excluding Saturdays, Sundays, and legal holidays, unless:

4157 (a) as described in Section 62A-15-631, an application for involuntary commitment is  
4158 commenced, which may be accompanied by an order of detention described in Subsection  
4159 62A-15-631(4); or

4160 (b) the patient makes a voluntary application for admission.

4161 (4) Upon a written application described in Subsection (1)(a) or the observation and  
4162 belief described in Subsection (1)(b)(i), the adult shall be:

4163 (a) taken into a peace officer's protective custody, by reasonable means, if necessary for  
4164 public safety; and

4165 (b) transported for temporary commitment to a facility designated by the local mental  
4166 health authority, by means of:

4167 (i) an ambulance, if the adult meets any of the criteria described in Section 26-8a-305;

4168 (ii) an ambulance, if a peace officer is not necessary for public safety, and  
4169 transportation arrangements are made by a physician, physician assistant, designated examiner,  
4170 or mental health officer;

4171 (iii) the city, town, or municipal law enforcement authority with jurisdiction over the  
4172 location where the individual to be committed is present, if the individual is not transported by  
4173 ambulance; or

4174 (iv) the county sheriff, if the designated facility is outside of the jurisdiction of the law  
4175 enforcement authority described in Subsection (4)(b)(iii) and the individual is not transported  
4176 by ambulance.

4177 (5) Notwithstanding Subsection (4):

4178 (a) an individual shall be transported by ambulance to an appropriate medical facility  
4179 for treatment if the individual requires physical medical attention;

4180 (b) if an officer has probable cause to believe, based on the officer's experience and  
4181 de-escalation training that taking an individual into protective custody or transporting an

4182 individual for temporary commitment would increase the risk of substantial danger to the  
4183 individual or others, a peace officer may exercise discretion to not take the individual into  
4184 custody or transport the individual, as permitted by policies and procedures established by the  
4185 officer's law enforcement agency and any applicable federal or state statute, or case law; and

4186 (c) if an officer exercises discretion under Subsection (4)(b) to not take an individual  
4187 into protective custody or transport an individual, the officer shall document in the officer's  
4188 report the details and circumstances that led to the officer's decision.

4189 (6) Title 63G, Chapter 7, Governmental Immunity Act of Utah, applies to this section.

4190 This section does not create a special duty of care.

4191 Section 73. Section **62A-15-631** is amended to read:

4192 **62A-15-631. Involuntary commitment under court order -- Examination --**  
4193 **Hearing -- Power of court -- Findings required -- Costs.**

4194 (1) A responsible person who has reason to know of an adult's mental illness and the  
4195 condition or circumstances that have led to the adult's need to be involuntarily committed may  
4196 initiate an involuntary commitment court proceeding by filing, in the district court in the  
4197 county where the proposed patient resides or is found, a written application that includes:

4198 (a) unless the court finds that the information is not reasonably available, the proposed  
4199 patient's:

4200 (i) name;

4201 (ii) date of birth; and

4202 (iii) social security number; and

4203 (b) (i) a certificate of a licensed physician, physician assistant, or a designated  
4204 examiner stating that within the seven-day period immediately preceding the certification, the  
4205 physician, physician assistant, or designated examiner examined the proposed patient and is of  
4206 the opinion that the proposed patient has a mental illness and should be involuntarily  
4207 committed; or

4208 (ii) a written statement by the applicant that:

4209 (A) the proposed patient has been requested to, but has refused to, submit to an  
4210 examination of mental condition by a licensed physician, physician assistant, or designated  
4211 examiner;

4212 (B) is sworn to under oath; and

4213 (C) states the facts upon which the application is based.

4214 (2) (a) Subject to Subsection (2)(b), before issuing a judicial order, the court may  
4215 require the applicant to consult with the appropriate local mental health authority, and the court  
4216 may direct a mental health professional from that local mental health authority to interview the  
4217 applicant and the proposed patient to determine the existing facts and report them to the court.

4218 (b) The consultation described in Subsection (2)(a):

4219 (i) may take place at or before the hearing; and

4220 (ii) is required if the local mental health authority appears at the hearing.

4221 (3) If the court finds from the application, from any other statements under oath, or  
4222 from any reports from a mental health professional that there is a reasonable basis to believe  
4223 that the proposed patient has a mental illness that poses a substantial danger to self or others  
4224 requiring involuntary commitment pending examination and hearing; or, if the proposed patient  
4225 has refused to submit to an interview with a mental health professional as directed by the court  
4226 or to go to a treatment facility voluntarily, the court may issue an order, directed to a mental  
4227 health officer or peace officer, to immediately place the proposed patient in the custody of a  
4228 local mental health authority or in a temporary emergency facility as provided in Section  
4229 [62A-15-634](#) to be detained for the purpose of examination.

4230 (4) Notice of commencement of proceedings for involuntary commitment, setting forth  
4231 the allegations of the application and any reported facts, together with a copy of any official  
4232 order of detention, shall be provided by the court to a proposed patient before, or upon,  
4233 placement in the custody of a local mental health authority or, with respect to any proposed  
4234 patient presently in the custody of a local mental health authority whose status is being changed  
4235 from voluntary to involuntary, upon the filing of an application for that purpose with the court.  
4236 A copy of that order of detention shall be maintained at the place of detention.

4237 (5) Notice of commencement of those proceedings shall be provided by the court as  
4238 soon as practicable to the applicant, any legal guardian, any immediate adult family members,  
4239 legal counsel for the parties involved, the local mental health authority or its designee, and any  
4240 other persons whom the proposed patient or the court shall designate. That notice shall advise  
4241 those persons that a hearing may be held within the time provided by law. If the proposed  
4242 patient has refused to permit release of information necessary for provisions of notice under  
4243 this subsection, the extent of notice shall be determined by the court.

4244 (6) Proceedings for commitment of an individual under the age of 18 years to a local  
4245 mental health authority may be commenced in accordance with Part 7, Commitment of Persons  
4246 Under Age 18 to Division of Substance Abuse and Mental Health.

4247 (7) The district court may, in its discretion, transfer the case to any other district court  
4248 within this state, provided that the transfer will not be adverse to the interest of the proposed  
4249 patient.

4250 (8) Within 24 hours, excluding Saturdays, Sundays, and legal holidays, of the issuance  
4251 of a judicial order, or after commitment of a proposed patient to a local mental health authority  
4252 or its designee under court order for detention or examination, the court shall appoint two  
4253 designated examiners:

4254 (a) who did not sign the civil commitment application nor the civil commitment  
4255 certification under Subsection (1);

4256 (b) one of whom is a licensed physician or physician assistant; and

4257 (c) one of whom may be designated by the proposed patient or the proposed patient's  
4258 counsel, if that designated examiner is reasonably available.

4259 (9) The court shall schedule a hearing to be held within 10 calendar days of the day on  
4260 which the designated examiners are appointed.

4261 (10) The designated examiners shall:

4262 (a) conduct their examinations separately;

4263 (b) conduct the examinations at the home of the proposed patient, at a hospital or other  
4264 medical facility, or at any other suitable place that is not likely to have a harmful effect on the  
4265 proposed patient's health;

4266 (c) inform the proposed patient, if not represented by an attorney:

4267 (i) that the proposed patient does not have to say anything;

4268 (ii) of the nature and reasons for the examination;

4269 (iii) that the examination was ordered by the court;

4270 (iv) that any information volunteered could form part of the basis for the proposed  
4271 patient's involuntary commitment; and

4272 (v) that findings resulting from the examination will be made available to the court;  
4273 and

4274 (d) within 24 hours of examining the proposed patient, report to the court, orally or in

4275 writing, whether the proposed patient is mentally ill, has agreed to voluntary commitment, as  
4276 described in Section 62A-15-625, or has acceptable programs available to the proposed patient  
4277 without court proceedings. If the designated examiner reports orally, the designated examiner  
4278 shall immediately send a written report to the clerk of the court.

4279 (11) If a designated examiner is unable to complete an examination on the first attempt  
4280 because the proposed patient refuses to submit to the examination, the court shall fix a  
4281 reasonable compensation to be paid to the examiner.

4282 (12) If the local mental health authority, its designee, or a medical examiner determines  
4283 before the court hearing that the conditions justifying the findings leading to a commitment  
4284 hearing no longer exist, the local mental health authority, its designee, or the medical examiner  
4285 shall immediately report that determination to the court.

4286 (13) The court may terminate the proceedings and dismiss the application at any time,  
4287 including prior to the hearing, if the designated examiners or the local mental health authority  
4288 or its designee informs the court that the proposed patient:

4289 (a) is not mentally ill;

4290 (b) has agreed to voluntary commitment, as described in Section 62A-15-625; or

4291 (c) has acceptable options for treatment programs that are available without court  
4292 proceedings.

4293 (14) Before the hearing, an opportunity to be represented by counsel shall be afforded  
4294 to every proposed patient, and if neither the proposed patient nor others provide counsel, the  
4295 court shall appoint counsel and allow counsel sufficient time to consult with the proposed  
4296 patient before the hearing. In the case of an indigent proposed patient, the payment of  
4297 reasonable attorney fees for counsel, as determined by the court, shall be made by the county in  
4298 which the proposed patient resides or is found.

4299 (15) (a) The proposed patient, the applicant, and all other persons to whom notice is  
4300 required to be given shall be afforded an opportunity to appear at the hearing, to testify, and to  
4301 present and cross-examine witnesses. The court may, in its discretion, receive the testimony of  
4302 any other person. The court may allow a waiver of the proposed patient's right to appear only  
4303 for good cause shown, and that cause shall be made a matter of court record.

4304 (b) The court is authorized to exclude all persons not necessary for the conduct of the  
4305 proceedings and may, upon motion of counsel, require the testimony of each examiner to be

4306 given out of the presence of any other examiners.

4307 (c) The hearing shall be conducted in as informal a manner as may be consistent with  
4308 orderly procedure, and in a physical setting that is not likely to have a harmful effect on the  
4309 mental health of the proposed patient.

4310 (d) The court shall consider all relevant historical and material information that is  
4311 offered, subject to the rules of evidence, including reliable hearsay under Rule 1102, Utah  
4312 Rules of Evidence.

4313 (e) (i) A local mental health authority or its designee, or the physician in charge of the  
4314 proposed patient's care shall, at the time of the hearing, provide the court with the following  
4315 information:

4316 (A) the detention order;

4317 (B) admission notes;

4318 (C) the diagnosis;

4319 (D) any doctors' orders;

4320 (E) progress notes;

4321 (F) nursing notes; and

4322 (G) medication records pertaining to the current commitment.

4323 (ii) That information shall also be supplied to the proposed patient's counsel at the time  
4324 of the hearing, and at any time prior to the hearing upon request.

4325 (16) The court shall order commitment of a proposed patient who is 18 years of age or  
4326 older to a local mental health authority if, upon completion of the hearing and consideration of  
4327 the information presented in accordance with Subsection (15)(d), the court finds by clear and  
4328 convincing evidence that:

4329 (a) the proposed patient has a mental illness;

4330 (b) because of the proposed patient's mental illness the proposed patient poses a  
4331 substantial danger to self or others;

4332 (c) the proposed patient lacks the ability to engage in a rational decision-making  
4333 process regarding the acceptance of mental treatment as demonstrated by evidence of inability  
4334 to weigh the possible risks of accepting or rejecting treatment;

4335 (d) there is no appropriate less-restrictive alternative to a court order of commitment;  
4336 and

4337 (e) the local mental health authority can provide the proposed patient with treatment  
4338 that is adequate and appropriate to the proposed patient's conditions and needs. In the absence  
4339 of the required findings of the court after the hearing, the court shall dismiss the proceedings.

4340 (17) (a) The order of commitment shall designate the period for which the patient shall  
4341 be treated. When the patient is not under an order of commitment at the time of the hearing,  
4342 that period may not exceed six months without benefit of a review hearing. Upon such a  
4343 review hearing, to be commenced prior to the expiration of the previous order, an order for  
4344 commitment may be for an indeterminate period, if the court finds by clear and convincing  
4345 evidence that the required conditions in Subsection (16) will last for an indeterminate period.

4346 (b) The court shall maintain a current list of all patients under its order of commitment.  
4347 That list shall be reviewed to determine those patients who have been under an order of  
4348 commitment for the designated period. At least two weeks prior to the expiration of the  
4349 designated period of any order of commitment still in effect, the court that entered the original  
4350 order shall inform the appropriate local mental health authority or its designee. The local  
4351 mental health authority or its designee shall immediately reexamine the reasons upon which the  
4352 order of commitment was based. If the local mental health authority or its designee determines  
4353 that the conditions justifying that commitment no longer exist, it shall discharge the patient  
4354 from involuntary commitment and immediately report the discharge to the court. Otherwise,  
4355 the court shall immediately appoint two designated examiners and proceed under Subsections  
4356 (8) through (14).

4357 (c) The local mental health authority or its designee responsible for the care of a patient  
4358 under an order of commitment for an indeterminate period shall, at six-month intervals,  
4359 reexamine the reasons upon which the order of indeterminate commitment was based. If the  
4360 local mental health authority or its designee determines that the conditions justifying that  
4361 commitment no longer exist, that local mental health authority or its designee shall discharge  
4362 the patient from its custody and immediately report the discharge to the court. If the local  
4363 mental health authority or its designee determines that the conditions justifying that  
4364 commitment continue to exist, the local mental health authority or its designee shall send a  
4365 written report of those findings to the court. The patient and the patient's counsel of record  
4366 shall be notified in writing that the involuntary commitment will be continued, the reasons for  
4367 that decision, and that the patient has the right to a review hearing by making a request to the

4368 court. Upon receiving the request, the court shall immediately appoint two designated  
4369 examiners and proceed under Subsections (8) through (14).

4370 (18) Any patient committed as a result of an original hearing or a patient's legally  
4371 designated representative who is aggrieved by the findings, conclusions, and order of the court  
4372 entered in the original hearing has the right to a new hearing upon a petition filed with the court  
4373 within 30 days of the entry of the court order. The petition must allege error or mistake in the  
4374 findings, in which case the court shall appoint three impartial designated examiners previously  
4375 unrelated to the case to conduct an additional examination of the patient. The new hearing  
4376 shall, in all other respects, be conducted in the manner otherwise permitted.

4377 (19) Costs of all proceedings under this section shall be paid by the county in which the  
4378 proposed patient resides or is found.

4379 Section 74. Section **62A-15-640** is amended to read:

4380 **62A-15-640. Mechanical restraints and medication -- Clinical record.**

4381 (1) Mechanical restraints may not be applied to a patient unless it is determined by the  
4382 director or his designee to be required by the needs of the patient. Every use of a mechanical  
4383 restraint and the reasons therefor shall be made a part of the patient's clinical record, under the  
4384 signature of the director or his designee, and shall be reviewed regularly.

4385 (2) In no event shall medication be prescribed for a patient unless it is determined by a  
4386 physician or physician assistant to be required by the patient's medical needs. Every use of a  
4387 medication and the reasons therefor shall be made a part of the patient's clinical record.

4388 Section 75. Section **62A-15-703** is amended to read:

4389 **62A-15-703. Residential and inpatient settings -- Commitment proceeding --**  
4390 **Child in physical custody of local mental health authority.**

4391 (1) A child may receive services from a local mental health authority in an inpatient or  
4392 residential setting only after a commitment proceeding, for the purpose of transferring physical  
4393 custody, has been conducted in accordance with the requirements of this section.

4394 (2) That commitment proceeding shall be initiated by a petition for commitment, and  
4395 shall be a careful, diagnostic inquiry, conducted by a neutral and detached fact finder, pursuant  
4396 to the procedures and requirements of this section. If the findings described in Subsection (4)  
4397 exist, the proceeding shall result in the transfer of physical custody to the appropriate local  
4398 mental health authority, and the child may be placed in an inpatient or residential setting.

- 4399 (3) The neutral and detached fact finder who conducts the inquiry:  
4400 (a) shall be a designated examiner, as defined in Section 62A-15-602; and  
4401 (b) may not profit, financially or otherwise, from the commitment or physical  
4402 placement of the child in that setting.
- 4403 (4) Upon determination by a fact finder that the following circumstances clearly exist,  
4404 the fact finder may order that the child be committed to the physical custody of a local mental  
4405 health authority:
- 4406 (a) the child has a mental illness, as defined in Subsection 62A-15-602(13);  
4407 (b) the child demonstrates a reasonable fear of the risk of substantial danger to self or  
4408 others;
- 4409 (c) the child will benefit from care and treatment by the local mental health authority;  
4410 and
- 4411 (d) there is no appropriate less-restrictive alternative.
- 4412 (5) (a) The commitment proceeding before the neutral and detached fact finder shall be  
4413 conducted in as informal manner as possible and in a physical setting that is not likely to have a  
4414 harmful effect on the child.
- 4415 (b) The child, the child's parent or legal guardian, the petitioner, and a representative of  
4416 the appropriate local mental health authority:
- 4417 (i) shall receive informal notice of the date and time of the proceeding; and  
4418 (ii) may appear and address the petition for commitment.
- 4419 (c) The neutral and detached fact finder may, in the fact finder's discretion, receive the  
4420 testimony of any other person.
- 4421 (d) The fact finder may allow a child to waive the child's right to be present at the  
4422 commitment proceeding, for good cause shown. If that right is waived, the purpose of the  
4423 waiver shall be made a matter of record at the proceeding.
- 4424 (e) At the time of the commitment proceeding, the appropriate local mental health  
4425 authority, its designee, or the psychiatrist who has been in charge of the child's care prior to the  
4426 commitment proceeding, shall provide the neutral and detached fact finder with the following  
4427 information, as it relates to the period of current admission:
- 4428 (i) the petition for commitment;  
4429 (ii) the admission notes;

4430 (iii) the child's diagnosis;

4431 (iv) physicians' or physician assistants' orders;

4432 (v) progress notes;

4433 (vi) nursing notes; and

4434 (vii) medication records.

4435 (f) The information described in Subsection (5)(e) shall also be provided to the child's  
4436 parent or legal guardian upon written request.

4437 (g) (i) The neutral and detached fact finder's decision of commitment shall state the  
4438 duration of the commitment. Any commitment to the physical custody of a local mental health  
4439 authority may not exceed 180 days. Prior to expiration of the commitment, and if further  
4440 commitment is sought, a hearing shall be conducted in the same manner as the initial  
4441 commitment proceeding, in accordance with the requirements of this section.

4442 (ii) At the conclusion of the hearing and subsequently in writing, when a decision for  
4443 commitment is made, the neutral and detached fact finder shall inform the child and the child's  
4444 parent or legal guardian of that decision and of the reasons for ordering commitment.

4445 (iii) The neutral and detached fact finder shall state in writing the basis of the decision,  
4446 with specific reference to each of the criteria described in Subsection (4), as a matter of record.

4447 (6) A child may be temporarily committed for a maximum of 72 hours, excluding  
4448 Saturdays, Sundays, and legal holidays, to the physical custody of a local mental health  
4449 authority in accordance with the procedures described in Section [62A-15-629](#) and upon  
4450 satisfaction of the risk factors described in Subsection (4). A child who is temporarily  
4451 committed shall be released at the expiration of the 72 hours unless the procedures and findings  
4452 required by this section for the commitment of a child are satisfied.

4453 (7) A local mental health authority shall have physical custody of each child committed  
4454 to it under this section. The parent or legal guardian of a child committed to the physical  
4455 custody of a local mental health authority under this section, retains legal custody of the child,  
4456 unless legal custody has been otherwise modified by a court of competent jurisdiction. In cases  
4457 when the Division of Child and Family Services or the Division of Juvenile Justice Services  
4458 has legal custody of a child, that division shall retain legal custody for purposes of this part.

4459 (8) The cost of caring for and maintaining a child in the physical custody of a local  
4460 mental health authority shall be assessed to and paid by the child's parents, according to their

4461 ability to pay. For purposes of this section, the Division of Child and Family Services or the  
4462 Division of Juvenile Justice Services shall be financially responsible, in addition to the child's  
4463 parents, if the child is in the legal custody of either of those divisions at the time the child is  
4464 committed to the physical custody of a local mental health authority under this section, unless  
4465 Medicaid regulation or contract provisions specify otherwise. The Office of Recovery Services  
4466 shall assist those divisions in collecting the costs assessed pursuant to this section.

4467 (9) Whenever application is made for commitment of a minor to a local mental health  
4468 authority under any provision of this section by a person other than the child's parent or  
4469 guardian, the local mental health authority or its designee shall notify the child's parent or  
4470 guardian. The parents shall be provided sufficient time to prepare and appear at any scheduled  
4471 proceeding.

4472 (10) (a) Each child committed pursuant to this section is entitled to an appeal within 30  
4473 days after any order for commitment. The appeal may be brought on the child's own petition or  
4474 on petition of the child's parent or legal guardian, to the juvenile court in the district where the  
4475 child resides or is currently physically located. With regard to a child in the custody of the  
4476 Division of Child and Family Services or the Division of Juvenile Justice Services, the attorney  
4477 general's office shall handle the appeal, otherwise the appropriate county attorney's office is  
4478 responsible for appeals brought pursuant to this Subsection (10)(a).

4479 (b) Upon receipt of the petition for appeal, the court shall appoint a designated  
4480 examiner previously unrelated to the case, to conduct an examination of the child in accordance  
4481 with the criteria described in Subsection (4), and file a written report with the court. The court  
4482 shall then conduct an appeal hearing to determine whether the findings described in Subsection  
4483 (4) exist by clear and convincing evidence.

4484 (c) Prior to the time of the appeal hearing, the appropriate local mental health authority,  
4485 its designee, or the mental health professional who has been in charge of the child's care prior  
4486 to commitment, shall provide the court and the designated examiner for the appeal hearing with  
4487 the following information, as it relates to the period of current admission:

- 4488 (i) the original petition for commitment;
- 4489 (ii) admission notes;
- 4490 (iii) diagnosis;
- 4491 (iv) physicians' or physician assistants' orders;

- 4492 (v) progress notes;
- 4493 (vi) nursing notes; and
- 4494 (vii) medication records.

4495 (d) Both the neutral and detached fact finder and the designated examiner appointed for  
4496 the appeal hearing shall be provided with an opportunity to review the most current  
4497 information described in Subsection (10)(c) prior to the appeal hearing.

4498 (e) The child, the child's parent or legal guardian, the person who submitted the  
4499 original petition for commitment, and a representative of the appropriate local mental health  
4500 authority shall be notified by the court of the date and time of the appeal hearing. Those  
4501 persons shall be afforded an opportunity to appear at the hearing. In reaching its decision, the  
4502 court shall review the record and findings of the neutral and detached fact finder, the report of  
4503 the designated examiner appointed pursuant to Subsection (10)(b), and may, in its discretion,  
4504 allow or require the testimony of the neutral and detached fact finder, the designated examiner,  
4505 the child, the child's parent or legal guardian, the person who brought the initial petition for  
4506 commitment, or any other person whose testimony the court deems relevant. The court may  
4507 allow the child to waive the right to appear at the appeal hearing, for good cause shown. If that  
4508 waiver is granted, the purpose shall be made a part of the court's record.

4509 (11) Each local mental health authority has an affirmative duty to conduct periodic  
4510 evaluations of the mental health and treatment progress of every child committed to its physical  
4511 custody under this section, and to release any child who has sufficiently improved so that the  
4512 criteria justifying commitment no longer exist.

4513 (12) (a) A local mental health authority or its designee, in conjunction with the child's  
4514 current treating mental health professional may release an improved child to a less restrictive  
4515 environment, as they determine appropriate. Whenever the local mental health authority or its  
4516 designee, and the child's current treating mental health professional, determine that the  
4517 conditions justifying commitment no longer exist, the child shall be discharged and released to  
4518 the child's parent or legal guardian. With regard to a child who is in the physical custody of the  
4519 State Hospital, the treating psychiatrist or clinical director of the State Hospital shall be the  
4520 child's current treating mental health professional.

4521 (b) A local mental health authority or its designee, in conjunction with the child's  
4522 current treating mental health professional, is authorized to issue a written order for the

4523 immediate placement of a child not previously released from an order of commitment into a  
4524 more restrictive environment, if the local authority or its designee and the child's current  
4525 treating mental health professional has reason to believe that the less restrictive environment in  
4526 which the child has been placed is exacerbating the child's mental illness, or increasing the risk  
4527 of harm to self or others.

4528 (c) The written order described in Subsection (12)(b) shall include the reasons for  
4529 placement in a more restrictive environment and shall authorize any peace officer to take the  
4530 child into physical custody and transport the child to a facility designated by the appropriate  
4531 local mental health authority in conjunction with the child's current treating mental health  
4532 professional. Prior to admission to the more restrictive environment, copies of the order shall  
4533 be personally delivered to the child, the child's parent or legal guardian, the administrator of the  
4534 more restrictive environment, or the administrator's designee, and the child's former treatment  
4535 provider or facility.

4536 (d) If the child has been in a less restrictive environment for more than 30 days and is  
4537 aggrieved by the change to a more restrictive environment, the child or the child's  
4538 representative may request a review within 30 days of the change, by a neutral and detached  
4539 fact finder as described in Subsection (3). The fact finder shall determine whether:

4540 (i) the less restrictive environment in which the child has been placed is exacerbating  
4541 the child's mental illness or increasing the risk of harm to self or others; or

4542 (ii) the less restrictive environment in which the child has been placed is not  
4543 exacerbating the child's mental illness or increasing the risk of harm to self or others, in which  
4544 case the fact finder shall designate that the child remain in the less restrictive environment.

4545 (e) Nothing in this section prevents a local mental health authority or its designee, in  
4546 conjunction with the child's current mental health professional, from discharging a child from  
4547 commitment or from placing a child in an environment that is less restrictive than that  
4548 designated by the neutral and detached fact finder.

4549 (13) Each local mental health authority or its designee, in conjunction with the child's  
4550 current treating mental health professional shall discharge any child who, in the opinion of that  
4551 local authority, or its designee, and the child's current treating mental health professional, no  
4552 longer meets the criteria specified in Subsection (4), except as provided by Section 78A-6-120.  
4553 The local authority and the mental health professional shall assure that any further supportive

4554 services required to meet the child's needs upon release will be provided.

4555 (14) Even though a child has been committed to the physical custody of a local mental  
4556 health authority under this section, the child is still entitled to additional due process  
4557 proceedings, in accordance with Section [62A-15-704](#), before any treatment that may affect a  
4558 constitutionally protected liberty or privacy interest is administered. Those treatments include,  
4559 but are not limited to, antipsychotic medication, electroshock therapy, and psychosurgery.

4560 Section 76. Section **62A-15-1001** is amended to read:

4561 **62A-15-1001. Definitions.**

4562 As used in this part:

4563 (1) "Attending physician" means a physician licensed to practice medicine in this state  
4564 who has primary responsibility for the care and treatment of the declarant.

4565 (2) "Attorney-in-fact" means an adult properly appointed under this part to make  
4566 mental health treatment decisions for a declarant under a declaration for mental health  
4567 treatment.

4568 (3) "Incapable" means that, in the opinion of the court in a guardianship proceeding  
4569 under Title 75, Utah Uniform Probate Code, or in the opinion of two physicians, or one  
4570 physician and one physician assistant, a person's ability to receive and evaluate information  
4571 effectively or communicate decisions is impaired to such an extent that the person currently  
4572 lacks the capacity to make mental health treatment decisions.

4573 (4) "Mental health facility" means the same as that term is defined in Section  
4574 [62A-15-602](#).

4575 (5) "Mental health treatment" means convulsive treatment, treatment with psychoactive  
4576 medication, or admission to and retention in a facility for a period not to exceed 17 days.

4577 Section 77. Section **62A-15-1002** is amended to read:

4578 **62A-15-1002. Declaration for mental health treatment.**

4579 (1) An adult who is not incapable may make a declaration of preferences or  
4580 instructions regarding his mental health treatment. The declaration may include, but is not  
4581 limited to, consent to or refusal of specified mental health treatment.

4582 (2) A declaration for mental health treatment shall designate a capable adult to act as  
4583 attorney-in-fact to make decisions about mental health treatment for the declarant. An  
4584 alternative attorney-in-fact may also be designated to act as attorney-in-fact if the original

4585 designee is unable or unwilling to act at any time. An attorney-in-fact who has accepted the  
4586 appointment in writing may make decisions about mental health treatment on behalf of the  
4587 declarant only when the declarant is incapable. The decisions shall be consistent with any  
4588 instructions or desires the declarant has expressed in the declaration.

4589 (3) A declaration is effective only if it is signed by the declarant and two capable adult  
4590 witnesses. The witnesses shall attest that the declarant is known to them, signed the  
4591 declaration in their presence, appears to be of sound mind and is not under duress, fraud, or  
4592 undue influence. Persons specified in Subsection 62A-15-1003(6) may not act as witnesses.

4593 (4) A declaration becomes operative when it is delivered to the declarant's physician,  
4594 physician assistant, or other mental health treatment provider and remains valid until it expires  
4595 or is revoked by the declarant. The physician, physician assistant, or provider is authorized to  
4596 act in accordance with an operative declaration when the declarant has been found to be  
4597 incapable. The physician, physician assistant, or provider shall continue to obtain the  
4598 declarant's informed consent to all mental health treatment decisions if the declarant is capable  
4599 of providing informed consent or refusal.

4600 (5) (a) An attorney-in-fact does not have authority to make mental health treatment  
4601 decisions unless the declarant is incapable.

4602 (b) An attorney-in-fact is not, solely as a result of acting in that capacity, personally  
4603 liable for the cost of treatment provided to the declarant.

4604 (c) Except to the extent that a right is limited by a declaration or by any federal law, an  
4605 attorney-in-fact has the same right as the declarant to receive information regarding the  
4606 proposed mental health treatment and to receive, review, and consent to disclosure of medical  
4607 records relating to that treatment. This right of access does not waive any evidentiary privilege.

4608 (d) In exercising authority under the declaration, the attorney-in-fact shall act  
4609 consistently with the instructions and desires of the declarant, as expressed in the declaration.  
4610 If the declarant's desires are unknown, the attorney-in-fact shall act in what he, in good faith,  
4611 believes to be the best interest of the declarant.

4612 (e) An attorney-in-fact is not subject to criminal prosecution, civil liability, or  
4613 professional disciplinary action for any action taken in good faith pursuant to a declaration for  
4614 mental health treatment.

4615 (6) (a) A declaration for mental health treatment remains effective for a period of three

4616 years or until revoked by the declarant. If a declaration for mental health treatment has been  
4617 invoked and is in effect at the expiration of three years after its execution, the declaration  
4618 remains effective until the declarant is no longer incapable.

4619 (b) The authority of a named attorney-in-fact and any alternative attorney-in-fact  
4620 continues in effect as long as the declaration appointing the attorney-in-fact is in effect or until  
4621 the attorney-in-fact has withdrawn.

4622 (7) A person may not be required to execute or to refrain from executing a declaration  
4623 as a criterion for insurance, as a condition for receiving mental or physical health services, or as  
4624 a condition of discharge from a facility.

4625 Section 78. Section **62A-15-1003** is amended to read:

4626 **62A-15-1003. Physician, physician assistant, and provider responsibilities --**  
4627 **Provision of services contrary to declaration -- Revocation.**

4628 (1) Upon being presented with a declaration, a physician shall make the declaration a  
4629 part of the declarant's medical record. When acting under authority of a declaration, a  
4630 physician shall comply with it to the fullest extent possible, consistent with reasonable medical  
4631 practice, the availability of treatments requested, and applicable law. If the physician,  
4632 physician assistant, or other provider is unwilling at any time to comply with the declaration,  
4633 the physician, physician assistant, or provider shall promptly notify the declarant and the  
4634 attorney-in-fact, and document the notification in the declarant's medical record.

4635 (2) A physician, physician assistant, or provider may subject a declarant to intrusive  
4636 treatment in a manner contrary to the declarant's wishes, as expressed in a declaration for  
4637 mental health treatment if:

4638 (a) the declarant has been committed to the custody of a local mental health authority  
4639 in accordance with Part 6, Utah State Hospital and Other Mental Health Facilities; or

4640 (b) in cases of emergency endangering life or health.

4641 (3) A declaration does not limit any authority provided in Part 6, Utah State Hospital  
4642 and Other Mental Health Facilities, to take a person into custody, or admit or retain a person in  
4643 the custody of a local mental health authority.

4644 (4) A declaration may be revoked in whole or in part by the declarant at any time so  
4645 long as the declarant is not incapable. That revocation is effective when the declarant  
4646 communicates the revocation to the attending physician, physician assistant, or other provider.

4647 The attending physician, physician assistant, or other provider shall note the revocation as part  
4648 of the declarant's medical record.

4649 (5) A physician or physician assistant who administers or does not administer mental  
4650 health treatment according to and in good faith reliance upon the validity of a declaration is not  
4651 subject to criminal prosecution, civil liability, or professional disciplinary action resulting from  
4652 a subsequent finding that a declaration is invalid.

4653 (6) None of the following persons may serve as an attorney-in-fact or as witnesses to  
4654 the signing of a declaration:

4655 (a) the declarant's attending physician, physician assistant, or mental health treatment  
4656 provider, or an employee of that physician or provider;

4657 (b) an employee of the division; or

4658 (c) an employee of a local mental health authority or any organization that contracts  
4659 with a local mental health authority.

4660 (7) An attorney-in-fact may withdraw by giving notice to the declarant. If a declarant  
4661 is incapable, the attorney-in-fact may withdraw by giving notice to the attending physician,  
4662 physician assistant, or provider. The attending physician shall note the withdrawal as part of  
4663 the declarant's medical record.

4664 Section 79. Section **62A-15-1004** is amended to read:

4665 **62A-15-1004. Declaration for mental health treatment -- Form.**

4666 A declaration for mental health treatment shall be in substantially the following form:

4667 DECLARATION FOR MENTAL HEALTH TREATMENT

4668 I, \_\_\_\_\_, being an adult of sound mind, willfully and  
4669 voluntarily make this declaration for mental health treatment, to be followed if it is determined  
4670 by a court or by two physicians, or by one physician and one physician assistant, that my ability  
4671 to receive and evaluate information effectively or to communicate my decisions is impaired to  
4672 such an extent that I lack the capacity to refuse or consent to mental health treatment. "Mental  
4673 health treatment" means convulsive treatment, treatment with psychoactive medication, and  
4674 admission to and retention in a mental health facility for a period up to 17 days.

4675 I understand that I may become incapable of giving or withholding informed consent  
4676 for mental health treatment due to the symptoms of a diagnosed mental disorder. These  
4677 symptoms may include:

4678 \_\_\_\_\_  
4679 \_\_\_\_\_

PSYCHOACTIVE MEDICATIONS

4681 If I become incapable of giving or withholding informed consent for mental health  
4682 treatment, my wishes regarding psychoactive medications are as follows:

4683 \_\_\_\_\_ I consent to the administration of the following medications:

4684 \_\_\_\_\_  
4685 in the dosages:

4686 \_\_\_\_\_ considered appropriate by my attending physician.

4687 \_\_\_\_\_ approved by \_\_\_\_\_

4688 \_\_\_\_\_ as I hereby direct: \_\_\_\_\_

4689 \_\_\_\_\_ I do not consent to the administration of the following medications:

4690 \_\_\_\_\_  
4691 \_\_\_\_\_  
4692 \_\_\_\_\_

CONVULSIVE TREATMENT

4694 If I become incapable of giving or withholding informed consent for mental health  
4695 treatment, my wishes regarding convulsive treatment are as follows:

4696 \_\_\_\_\_ I consent to the administration of convulsive treatment of the following type:  
4697 \_\_\_\_\_, the number of treatments to be:

4698 \_\_\_\_\_ determined by my attending physician or physician assistant.

4699 \_\_\_\_\_ approved by \_\_\_\_\_

4700 \_\_\_\_\_ as follows: \_\_\_\_\_

4701 \_\_\_\_\_ I do not consent to the administration of convulsive treatment.

4702 My reasons for consenting to or refusing convulsive treatment are as follows;

4703 \_\_\_\_\_  
4704 \_\_\_\_\_  
4705 \_\_\_\_\_

ADMISSION TO AND RETENTION IN A MENTAL HEALTH FACILITY

4707 If I become incapable of giving or withholding informed consent for mental health  
4708 treatment, my wishes regarding admission to and retention in a mental health facility are as

4709 follows:

4710 \_\_\_\_\_ I consent to being admitted to the following mental health facilities:

4711 \_\_\_\_\_

4712 I may be retained in the facility for a period of time:

4713 \_\_\_\_\_ determined by my attending physician or physician assistant.

4714 \_\_\_\_\_ approved by \_\_\_\_\_

4715 \_\_\_\_\_ no longer than \_\_\_\_\_

4716 This directive cannot, by law, provide consent to retain me in a facility for more than 17 days.

4717 ADDITIONAL REFERENCES OR INSTRUCTIONS

4718 \_\_\_\_\_

4719 \_\_\_\_\_

4720 \_\_\_\_\_

4721 ATTORNEY-IN-FACT

4722 I hereby appoint:

4723 NAME \_\_\_\_\_

4724 ADDRESS \_\_\_\_\_

4725 TELEPHONE # \_\_\_\_\_

4726 to act as my attorney-in-fact to make decisions regarding my mental health treatment if I

4727 become incapable of giving or withholding informed consent for that treatment.

4728 If the person named above refuses or is unable to act on my behalf, or if I revoke that

4729 person's authority to act as my attorney-in-fact, I authorize the following person to act as my

4730 alternative attorney-in-fact:

4731 NAME \_\_\_\_\_

4732 ADDRESS \_\_\_\_\_

4733 TELEPHONE # \_\_\_\_\_

4734 My attorney-in-fact is authorized to make decisions which are consistent with the

4735 wishes I have expressed in this declaration. If my wishes are not expressed, my attorney-in-fact

4736 is to act in good faith according to what he or she believes to be in my best interest.

4737 \_\_\_\_\_

4738 (Signature of Declarant/Date)

4739 AFFIRMATION OF WITNESSES

4740 We affirm that the declarant is personally known to us, that the declarant signed or  
 4741 acknowledged the declarant's signature on this declaration for mental health treatment in our  
 4742 presence, that the declarant appears to be of sound mind and does not appear to be under  
 4743 duress, fraud, or undue influence. Neither of us is the person appointed as attorney-in-fact by  
 4744 this document, the attending physician, an employee of the attending physician, an employee of  
 4745 the Division of Substance Abuse and Mental Health within the Department of Human Services,  
 4746 an employee of a local mental health authority, or an employee of any organization that  
 4747 contracts with a local mental health authority.

4748 Witnessed By:

4749 \_\_\_\_\_

4750 (Signature of Witness/Date)

(Printed Name of Witness)

4751 \_\_\_\_\_

4752 (Signature of Witness/Date)

(Printed Name of Witness)

4753 ACCEPTANCE OF APPOINTMENT AS ATTORNEY-IN-FACT

4754 I accept this appointment and agree to serve as attorney-in-fact to make decisions about  
 4755 mental health treatment for the declarant. I understand that I have a duty to act consistently  
 4756 with the desires of the declarant as expressed in the declaration. I understand that this  
 4757 document gives me authority to make decisions about mental health treatment only while the  
 4758 declarant is incapable as determined by a court or two physicians, or by one physician and one  
 4759 physician assistant. I understand that the declarant may revoke this appointment, or the  
 4760 declaration, in whole or in part, at any time and in any manner, when the declarant is not  
 4761 incapable.

4762 \_\_\_\_\_

4763 (Signature of Attorney-in-fact/Date)

(Printed name)

4764 \_\_\_\_\_

4765 (Signature of Alternate Attorney-in-fact/Date)

(Printed name)

4766 NOTICE TO PERSON MAKING A  
 4767 DECLARATION FOR MENTAL HEALTH TREATMENT

4768 This is an important legal document. It is a declaration that allows, or disallows, mental  
 4769 health treatment. Before signing this document, you should know that:

4770 (1) this document allows you to make decisions in advance about three types of mental

4771 health treatment: psychoactive medication, convulsive therapy, and short-term (up to 17 days)  
4772 admission to a mental health facility;

4773 (2) the instructions that you include in this declaration will be followed only if a court  
4774 or two physicians, or one physician and one physician assistant, believe that you are incapable  
4775 of otherwise making treatment decisions. Otherwise, you will be considered capable to give or  
4776 withhold consent for treatment;

4777 (3) you may also appoint a person as your attorney-in-fact to make these treatment  
4778 decisions for you if you become incapable. The person you appoint has a duty to act  
4779 consistently with your desires as stated in this document or, if not stated, to make decisions in  
4780 accordance with what that person believes, in good faith, to be in your best interest. For the  
4781 appointment to be effective, the person you appoint must accept the appointment in writing.  
4782 The person also has the right to withdraw from acting as your attorney-in-fact at any time;

4783 (4) this document will continue in effect for a period of three years unless you become  
4784 incapable of participating in mental health treatment decisions. If this occurs, the directive will  
4785 continue in effect until you are no longer incapable;

4786 (5) you have the right to revoke this document in whole or in part, or the appointment  
4787 of an attorney-in-fact, at any time you have not been determined to be incapable. YOU MAY  
4788 NOT REVOKE THE DECLARATION OR APPOINTMENT WHEN YOU ARE  
4789 CONSIDERED INCAPABLE BY A COURT OR TWO PHYSICIANS, OR BY ONE  
4790 PHYSICIAN AND ONE PHYSICIAN ASSISTANT. A revocation is effective when it is  
4791 communicated to your attending physician, physician assistant, or other provider; and

4792 (6) if there is anything in this document that you do not understand, you should ask an  
4793 attorney to explain it to you. This declaration is not valid unless it is signed by two qualified  
4794 witnesses who are personally known to you and who are present when you sign or  
4795 acknowledge your signature.

4796 Section 80. Section **62A-15-1207** is amended to read:

4797 **62A-15-1207. Seventy-two-hour emergency treatment pending a final court**  
4798 **order.**

4799 (1) A court may order a respondent to be hospitalized for up to 72 hours if:

4800 (a) an essential treatment examiner has examined the respondent and certified that the  
4801 respondent meets the criteria described in Section **62A-15-1204**; and

4802 (b) the court finds by clear and convincing evidence that the respondent presents an  
4803 imminent threat of serious harm to self or others as a result of a substance use disorder.

4804 (2) An individual who is admitted to a hospital under this section shall be released  
4805 from the hospital within 72 hours after admittance, unless a treating physician, physician  
4806 assistant, or essential treatment examiner determines that the individual continues to pose an  
4807 imminent threat of serious harm to self or others.

4808 (3) If a treating physician, physician assistant, or essential treatment examiner makes  
4809 the determination described in Subsection (2), the individual may be detained for as long as the  
4810 threat of serious harm remains imminent, but not more than 10 days after the day on which the  
4811 individual was hospitalized, unless a court orders otherwise.

4812 (4) A treating physician, physician assistant, or an essential treatment examiner shall,  
4813 as frequently as practicable, examine an individual hospitalized under this section and release  
4814 the individual if it is determined that a threat of imminent serious harm no longer exists.

4815 Section 81. Section **62A-15-1207.5** is amended to read:

4816 **62A-15-1207.5. Emergency, life saving treatment -- Temporary personal**  
4817 **representative.**

4818 (1) When an individual receives emergency, life saving treatment:

4819 (a) a licensed health care professional, at the health care facility where the emergency,  
4820 life saving treatment is provided, may ask the individual who, if anyone, may be contacted and  
4821 informed regarding the individual's treatment;

4822 (b) a treating physician or physician assistant may hold the individual in the health care  
4823 facility for up to 48 hours, if the treating physician or physician assistant determines that the  
4824 individual poses a serious harm to self or others; and

4825 (c) a relative of the individual may petition a court to be designated as the individual's  
4826 personal representative, described in 45 C.F.R. Sec. 164.502(g), for the limited purposes of the  
4827 individual's medical and mental health care related to a substance use disorder.

4828 (2) The petition described in Subsection (1)(c) shall include:

4829 (a) the respondent's:

4830 (i) legal name;

4831 (ii) date of birth, if known;

4832 (iii) social security number, if known; and

- 4833 (iv) residence and current location, if known;  
4834 (b) the petitioner's relationship to the respondent;  
4835 (c) the name and residence of the respondent's legal guardian, if any and if known;  
4836 (d) a statement that the respondent:  
4837 (i) is suffering from a substance use disorder; and  
4838 (ii) has received, within the last 72 hours, emergency, life saving treatment;  
4839 (e) the factual basis for the statement described in Subsection (2)(d); and  
4840 (f) the name of any other individual, if any, who may be designated as the respondent's  
4841 personal representative.

4842 (3) A court shall grant a petition for designation as a personal representative, ex parte,  
4843 if it appears from the petition for designation as a court-designated personal representative that:

- 4844 (a) the respondent is suffering from a substance use disorder;  
4845 (b) the respondent received emergency, life saving treatment within 10 days before the  
4846 day on which the petition for designation as a personal representative is filed;  
4847 (c) the petitioner is a relative of the respondent; and  
4848 (d) no other individual is otherwise designated as the respondent's personal  
4849 representative.

4850 (4) When a court grants, ex parte, a petition for designation as a personal  
4851 representative, the court:

- 4852 (a) shall provide notice to the respondent;  
4853 (b) shall order the petitioner to be the respondent's personal representative for 10 days  
4854 after the day on which the court designates the petitioner as the respondent's personal  
4855 representative; and  
4856 (c) may extend the duration of the order:  
4857 (i) for good cause shown, after the respondent has been notified and given a proper and  
4858 sufficient opportunity to respond; or  
4859 (ii) if the respondent consents to an extension.

4860 Section 82. Section **63G-2-202** is amended to read:

4861 **63G-2-202. Access to private, controlled, and protected documents.**

4862 (1) Except as provided in Subsection (11)(a), a governmental entity:

- 4863 (a) shall, upon request, disclose a private record to:

- 4864 (i) the subject of the record;
- 4865 (ii) the parent or legal guardian of an unemancipated minor who is the subject of the
- 4866 record;
- 4867 (iii) the legal guardian of a legally incapacitated individual who is the subject of the
- 4868 record;
- 4869 (iv) any other individual who:
  - 4870 (A) has a power of attorney from the subject of the record;
  - 4871 (B) submits a notarized release from the subject of the record or the individual's legal
  - 4872 representative dated no more than 90 days before the date the request is made; or
  - 4873 (C) if the record is a medical record described in Subsection 63G-2-302(1)(b), is a
  - 4874 health care provider, as defined in Section 26-33a-102, if releasing the record or information in
  - 4875 the record is consistent with normal professional practice and medical ethics; or
  - 4876 (v) any person to whom the record must be provided pursuant to:
    - 4877 (A) court order as provided in Subsection (7); or
    - 4878 (B) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena
    - 4879 Powers; and
- 4880 (b) may disclose a private record described in Subsection 63G-2-302(1)(j) or (k),
- 4881 without complying with Section 63G-2-206, to another governmental entity for a purpose
- 4882 related to:
  - 4883 (i) voter registration; or
  - 4884 (ii) the administration of an election.
- 4885 (2) (a) Upon request, a governmental entity shall disclose a controlled record to:
  - 4886 (i) a physician, physician assistant, psychologist, certified social worker, insurance
  - 4887 provider or producer, or a government public health agency upon submission of:
    - 4888 (A) a release from the subject of the record that is dated no more than 90 days prior to
    - 4889 the date the request is made; and
    - 4890 (B) a signed acknowledgment of the terms of disclosure of controlled information as
    - 4891 provided by Subsection (2)(b); and
    - 4892 (ii) any person to whom the record must be disclosed pursuant to:
      - 4893 (A) a court order as provided in Subsection (7); or
      - 4894 (B) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena

4895 Powers.

4896 (b) A person who receives a record from a governmental entity in accordance with  
4897 Subsection (2)(a)(i) may not disclose controlled information from that record to any person,  
4898 including the subject of the record.

4899 (3) If there is more than one subject of a private or controlled record, the portion of the  
4900 record that pertains to another subject shall be segregated from the portion that the requester is  
4901 entitled to inspect.

4902 (4) Upon request, and except as provided in Subsection (10) or (11)(b), a governmental  
4903 entity shall disclose a protected record to:

4904 (a) the person that submitted the record;

4905 (b) any other individual who:

4906 (i) has a power of attorney from all persons, governmental entities, or political  
4907 subdivisions whose interests were sought to be protected by the protected classification; or

4908 (ii) submits a notarized release from all persons, governmental entities, or political  
4909 subdivisions whose interests were sought to be protected by the protected classification or from  
4910 their legal representatives dated no more than 90 days prior to the date the request is made;

4911 (c) any person to whom the record must be provided pursuant to:

4912 (i) a court order as provided in Subsection (7); or

4913 (ii) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena

4914 Powers; or

4915 (d) the owner of a mobile home park, subject to the conditions of Subsection

4916 [41-1a-116\(5\)](#).

4917 (5) Except as provided in Subsection (1)(b), a governmental entity may disclose a  
4918 private, controlled, or protected record to another governmental entity, political subdivision,  
4919 state, the United States, or a foreign government only as provided by Section [63G-2-206](#).

4920 (6) Before releasing a private, controlled, or protected record, the governmental entity  
4921 shall obtain evidence of the requester's identity.

4922 (7) A governmental entity shall disclose a record pursuant to the terms of a court order  
4923 signed by a judge from a court of competent jurisdiction, provided that:

4924 (a) the record deals with a matter in controversy over which the court has jurisdiction;

4925 (b) the court has considered the merits of the request for access to the record;

4926 (c) the court has considered and, where appropriate, limited the requester's use and  
4927 further disclosure of the record in order to protect:

4928 (i) privacy interests in the case of private or controlled records;

4929 (ii) business confidentiality interests in the case of records protected under Subsection  
4930 63G-2-305(1), (2), (40)(a)(ii), or (40)(a)(vi); and

4931 (iii) privacy interests or the public interest in the case of other protected records;

4932 (d) to the extent the record is properly classified private, controlled, or protected, the  
4933 interests favoring access, considering limitations thereon, are greater than or equal to the  
4934 interests favoring restriction of access; and

4935 (e) where access is restricted by a rule, statute, or regulation referred to in Subsection  
4936 63G-2-201(3)(b), the court has authority independent of this chapter to order disclosure.

4937 (8) (a) Except as provided in Subsection (8)(d), a governmental entity may disclose or  
4938 authorize disclosure of private or controlled records for research purposes if the governmental  
4939 entity:

4940 (i) determines that the research purpose cannot reasonably be accomplished without  
4941 use or disclosure of the information to the researcher in individually identifiable form;

4942 (ii) determines that:

4943 (A) the proposed research is bona fide; and

4944 (B) the value of the research is greater than or equal to the infringement upon personal  
4945 privacy;

4946 (iii) (A) requires the researcher to assure the integrity, confidentiality, and security of  
4947 the records; and

4948 (B) requires the removal or destruction of the individual identifiers associated with the  
4949 records as soon as the purpose of the research project has been accomplished;

4950 (iv) prohibits the researcher from:

4951 (A) disclosing the record in individually identifiable form, except as provided in  
4952 Subsection (8)(b); or

4953 (B) using the record for purposes other than the research approved by the governmental  
4954 entity; and

4955 (v) secures from the researcher a written statement of the researcher's understanding of  
4956 and agreement to the conditions of this Subsection (8) and the researcher's understanding that

4957 violation of the terms of this Subsection (8) may subject the researcher to criminal prosecution  
4958 under Section 63G-2-801.

4959 (b) A researcher may disclose a record in individually identifiable form if the record is  
4960 disclosed for the purpose of auditing or evaluating the research program and no subsequent use  
4961 or disclosure of the record in individually identifiable form will be made by the auditor or  
4962 evaluator except as provided by this section.

4963 (c) A governmental entity may require indemnification as a condition of permitting  
4964 research under this Subsection (8).

4965 (d) A governmental entity may not disclose or authorize disclosure of a private record  
4966 for research purposes as described in this Subsection (8) if the private record is a record  
4967 described in Subsection 63G-2-302(1)(u).

4968 (9) (a) Under Subsections 63G-2-201(5)(b) and 63G-2-401(6), a governmental entity  
4969 may disclose to persons other than those specified in this section records that are:

4970 (i) private under Section 63G-2-302; or

4971 (ii) protected under Section 63G-2-305, subject to Section 63G-2-309 if a claim for  
4972 business confidentiality has been made under Section 63G-2-309.

4973 (b) Under Subsection 63G-2-403(11)(b), the records committee may require the  
4974 disclosure to persons other than those specified in this section of records that are:

4975 (i) private under Section 63G-2-302;

4976 (ii) controlled under Section 63G-2-304; or

4977 (iii) protected under Section 63G-2-305, subject to Section 63G-2-309 if a claim for  
4978 business confidentiality has been made under Section 63G-2-309.

4979 (c) Under Subsection 63G-2-404(7), the court may require the disclosure of records  
4980 that are private under Section 63G-2-302, controlled under Section 63G-2-304, or protected  
4981 under Section 63G-2-305 to persons other than those specified in this section.

4982 (10) A record contained in the Management Information System, created in Section  
4983 62A-4a-1003, that is found to be unsubstantiated, unsupported, or without merit may not be  
4984 disclosed to any person except the person who is alleged in the report to be a perpetrator of  
4985 abuse, neglect, or dependency.

4986 (11) (a) A private record described in Subsection 63G-2-302(2)(f) may only be  
4987 disclosed as provided in Subsection (1)(e).

4988 (b) A protected record described in Subsection 63G-2-305(43) may only be disclosed  
4989 as provided in Subsection (4)(c) or Section 62A-3-312.

4990 (12) (a) A private, protected, or controlled record described in Section 62A-16-301  
4991 shall be disclosed as required under:

4992 (i) Subsections 62A-16-301(1)(b), (2), and (4)(c); and

4993 (ii) Subsections 62A-16-302(1) and (6).

4994 (b) A record disclosed under Subsection (12)(a) shall retain its character as private,  
4995 protected, or controlled.

4996 Section 83. Section 63N-10-102 is amended to read:

4997 **63N-10-102. Definitions.**

4998 As used in this chapter:

4999 (1) "Bodily injury" has the same meaning as defined in Section 76-1-601.

5000 (2) "Boxing" means the sport of attack and defense using the fist, which is covered by  
5001 an approved boxing glove.

5002 (3) (a) "Club fighting" means any contest of unarmed combat, whether admission is  
5003 charged or not, where:

5004 (i) the rules of the contest are not approved by the commission;

5005 (ii) a licensed physician [or], osteopath, or physician assistant approved by the  
5006 commission is not in attendance;

5007 (iii) a correct HIV negative test regarding each contestant has not been provided to the  
5008 commission;

5009 (iv) the contest is not conducted in accordance with commission rules; or

5010 (v) the contestants are not matched by the weight standards established in accordance  
5011 with Section 63N-10-316.

5012 (b) "Club fighting" does not include sparring if:

5013 (i) it is conducted for training purposes;

5014 (ii) no tickets are sold to spectators;

5015 (iii) no concessions are available for spectators;

5016 (iv) protective clothing, including protective headgear, a mouthguard, and a protective  
5017 cup, is worn; and

5018 (v) for boxing, 16 ounce boxing gloves are worn.

- 5019 (4) "Commission" means the Pete Suazo Utah Athletic Commission created by this  
5020 chapter.
- 5021 (5) "Contest" means a live match, performance, or exhibition involving two or more  
5022 persons engaged in unarmed combat.
- 5023 (6) "Contestant" means an individual who participates in a contest.
- 5024 (7) "Designated commission member" means a member of the commission designated  
5025 to:
- 5026 (a) attend and supervise a particular contest; and  
5027 (b) act on the behalf of the commission at a contest venue.
- 5028 (8) "Director" means the director appointed by the commission.
- 5029 (9) "Elimination unarmed combat contest" means a contest where:  
5030 (a) a number of contestants participate in a tournament;  
5031 (b) the duration is not more than 48 hours; and  
5032 (c) the loser of each contest is eliminated from further competition.
- 5033 (10) "Exhibition" means an engagement in which the participants show or display their  
5034 skills without necessarily striving to win.
- 5035 (11) "Judge" means an individual qualified by training or experience to:  
5036 (a) rate the performance of contestants;  
5037 (b) score a contest; and  
5038 (c) determine with other judges whether there is a winner of the contest or whether the  
5039 contestants performed equally, resulting in a draw.
- 5040 (12) "Licensee" means an individual licensed by the commission to act as a:  
5041 (a) contestant;  
5042 (b) judge;  
5043 (c) manager;  
5044 (d) promoter;  
5045 (e) referee;  
5046 (f) second; or  
5047 (g) other official established by the commission by rule.
- 5048 (13) "Manager" means an individual who represents a contestant for the purpose of:  
5049 (a) obtaining a contest for a contestant;

5050 (b) negotiating terms and conditions of the contract under which the contestant will  
5051 engage in a contest; or

5052 (c) arranging for a second for the contestant at a contest.

5053 (14) "Promoter" means a person who engages in producing or staging contests and  
5054 promotions.

5055 (15) "Promotion" means a single contest or a combination of contests that:

5056 (a) occur during the same time and at the same location; and

5057 (b) is produced or staged by a promoter.

5058 (16) "Purse" means any money, prize, remuneration, or any other valuable  
5059 consideration a contestant receives or may receive for participation in a contest.

5060 (17) "Referee" means an individual qualified by training or experience to act as the  
5061 official attending a contest at the point of contact between contestants for the purpose of:

5062 (a) enforcing the rules relating to the contest;

5063 (b) stopping the contest in the event the health, safety, and welfare of a contestant or  
5064 any other person in attendance at the contest is in jeopardy; and

5065 (c) acting as a judge if so designated by the commission.

5066 (18) "Round" means one of a number of individual time periods that, taken together,  
5067 constitute a contest during which contestants are engaged in a form of unarmed combat.

5068 (19) "Second" means an individual who attends a contestant at the site of the contest  
5069 before, during, and after the contest in accordance with contest rules.

5070 (20) "Serious bodily injury" has the same meaning as defined in Section [76-1-601](#).

5071 (21) "Total gross receipts" means the amount of the face value of all tickets sold to a  
5072 particular contest plus any sums received as consideration for holding the contest at a particular  
5073 location.

5074 (22) "Ultimate fighting" means a live contest, whether or not an admission fee is  
5075 charged, in which:

5076 (a) contest rules permit contestants to use a combination of boxing, kicking, wrestling,  
5077 hitting, punching, or other combative contact techniques;

5078 (b) contest rules incorporate a formalized system of combative techniques against  
5079 which a contestant's performance is judged to determine the prevailing contestant;

5080 (c) contest rules divide nonchampionship contests into three equal and specified rounds

5081 of no more than five minutes per round with a rest period of one minute between each round;

5082 (d) contest rules divide championship contests into five equal and specified rounds of  
5083 no more than five minutes per round with a rest period of one minute between each round; and

5084 (e) contest rules prohibit contestants from:

5085 (i) using anything that is not part of the human body, except for boxing gloves, to  
5086 intentionally inflict serious bodily injury upon an opponent through direct contact or the  
5087 expulsion of a projectile;

5088 (ii) striking a person who demonstrates an inability to protect himself from the  
5089 advances of an opponent;

5090 (iii) biting; or

5091 (iv) direct, intentional, and forceful strikes to the eyes, groin area, Adam's apple area of  
5092 the neck, and the rear area of the head and neck.

5093 (23) (a) "Unarmed combat" means boxing or any other form of competition in which a  
5094 blow is usually struck which may reasonably be expected to inflict bodily injury.

5095 (b) "Unarmed combat" does not include a competition or exhibition between  
5096 participants in which the participants engage in simulated combat for entertainment purposes.

5097 (24) "Unlawful conduct" means organizing, promoting, or participating in a contest  
5098 which involves contestants that are not licensed under this chapter.

5099 (25) "Unprofessional conduct" means:

5100 (a) entering into a contract for a contest in bad faith;

5101 (b) participating in any sham or fake contest;

5102 (c) participating in a contest pursuant to a collusive understanding or agreement in  
5103 which the contestant competes in or terminates the contest in a manner that is not based upon  
5104 honest competition or the honest exhibition of the skill of the contestant;

5105 (d) engaging in an act or conduct that is detrimental to a contest, including any foul or  
5106 unsportsmanlike conduct in connection with a contest;

5107 (e) failing to comply with any limitation, restriction, or condition placed on a license;

5108 (f) striking of a downed opponent by a contestant while the contestant remains on the  
5109 contestant's feet, unless the designated commission member or director has exempted the  
5110 contest and each contestant from the prohibition on striking a downed opponent before the start  
5111 of the contest;

5112 (g) after entering the ring or contest area, penetrating an area within four feet of an  
5113 opponent by a contestant, manager, or second before the commencement of the contest; or

5114 (h) as further defined by rules made by the commission under Title 63G, Chapter 3,  
5115 Utah Administrative Rulemaking Act.

5116 (26) "White-collar contest" means a contest conducted at a training facility where no  
5117 alcohol is served in which:

5118 (a) for boxing:

5119 (i) neither contestant is or has been a licensed contestant in any state or an amateur  
5120 registered with USA Boxing, Inc.;

5121 (ii) no cash prize, or other prize valued at greater than \$35, is awarded;

5122 (iii) protective clothing, including protective headgear, a mouthguard, a protective cup,  
5123 and for a female contestant a chestguard, is worn;

5124 (iv) 16 ounce boxing gloves are worn;

5125 (v) the contest is no longer than three rounds of no longer than three minutes each;

5126 (vi) no winner or loser is declared or recorded; and

5127 (vii) the contestants do not compete in a cage; and

5128 (b) for ultimate fighting:

5129 (i) neither contestant is or has been a licensed contestant in any state or an amateur  
5130 registered with USA Boxing, Inc.;

5131 (ii) no cash prize, or other prize valued at greater than \$35, is awarded;

5132 (iii) protective clothing, including a protective mouthguard and a protective cup, is  
5133 worn;

5134 (iv) downward elbow strikes are not allowed;

5135 (v) a contestant is not allowed to stand and strike a downed opponent;

5136 (vi) a closed-hand blow to the head is not allowed while either contestant is on the  
5137 ground;

5138 (vii) the contest is no longer than three rounds of no longer than three minutes each;

5139 and

5140 (viii) no winner or loser is declared or recorded.

5141 Section 84. Section **63N-10-301** is amended to read:

5142 **63N-10-301. Licensing.**

- 5143 (1) A license is required for a person to act as or to represent that the person is:
- 5144 (a) a promoter;
- 5145 (b) a manager;
- 5146 (c) a contestant;
- 5147 (d) a second;
- 5148 (e) a referee;
- 5149 (f) a judge; or
- 5150 (g) another official established by the commission by rule.
- 5151 (2) The commission shall issue to a person who qualifies under this chapter a license in
- 5152 the classifications of:
- 5153 (a) promoter;
- 5154 (b) manager;
- 5155 (c) contestant;
- 5156 (d) second;
- 5157 (e) referee;
- 5158 (f) judge; or
- 5159 (g) another official who meets the requirements established by rule under Subsection
- 5160 (1)(g).
- 5161 (3) All money collected under this section and Sections [63N-10-304](#), [63N-10-307](#),
- 5162 [63N-10-310](#), and [63N-10-313](#) shall be retained as dedicated credits to pay for commission
- 5163 expenses.
- 5164 (4) Each applicant for licensure as a promoter shall:
- 5165 (a) submit an application in a form prescribed by the commission;
- 5166 (b) pay the fee determined by the commission under Section [63J-1-504](#);
- 5167 (c) provide to the commission evidence of financial responsibility, which shall include
- 5168 financial statements and other information that the commission may reasonably require to
- 5169 determine that the applicant or licensee is able to competently perform as and meet the
- 5170 obligations of a promoter in this state;
- 5171 (d) make assurances that the applicant:
- 5172 (i) is not engaging in illegal gambling with respect to sporting events or gambling with
- 5173 respect to the promotions the applicant is promoting;

5174 (ii) has not been found in a criminal or civil proceeding to have engaged in or  
5175 attempted to engage in any fraud or misrepresentation in connection with a contest or any other  
5176 sporting event; and

5177 (iii) has not been found in a criminal or civil proceeding to have violated or attempted  
5178 to violate any law with respect to a contest in any jurisdiction or any law, rule, or order relating  
5179 to the regulation of contests in this state or any other jurisdiction;

5180 (e) acknowledge in writing to the commission receipt, understanding, and intent to  
5181 comply with this chapter and the rules made under this chapter; and

5182 (f) if requested by the commission or the director, meet with the commission or the  
5183 director to examine the applicant's qualifications for licensure.

5184 (5) Each applicant for licensure as a contestant shall:

5185 (a) be not less than 18 years of age at the time the application is submitted to the  
5186 commission;

5187 (b) submit an application in a form prescribed by the commission;

5188 (c) pay the fee established by the commission under Section [63J-1-504](#);

5189 (d) provide a certificate of physical examination, dated not more than 60 days prior to  
5190 the date of application for licensure, in a form provided by the commission, completed by a  
5191 licensed physician and surgeon or physician assistant certifying that the applicant is free from  
5192 any physical or mental condition that indicates the applicant should not engage in activity as a  
5193 contestant;

5194 (e) make assurances that the applicant:

5195 (i) is not engaging in illegal gambling with respect to sporting events or gambling with  
5196 respect to a contest in which the applicant will participate;

5197 (ii) has not been found in a criminal or civil proceeding to have engaged in or  
5198 attempted to have engaged in any fraud or misrepresentation in connection with a contest or  
5199 any other sporting event; and

5200 (iii) has not been found in a criminal or civil proceeding to have violated or attempted  
5201 to violate any law with respect to contests in any jurisdiction or any law, rule, or order relating  
5202 to the regulation of contests in this state or any other jurisdiction;

5203 (f) acknowledge in writing to the commission receipt, understanding, and intent to  
5204 comply with this chapter and the rules made under this chapter; and

- 5205 (g) if requested by the commission or the director, meet with the commission or the  
5206 director to examine the applicant's qualifications for licensure.
- 5207 (6) Each applicant for licensure as a manager or second shall:
- 5208 (a) submit an application in a form prescribed by the commission;
- 5209 (b) pay a fee determined by the commission under Section [63J-1-504](#);
- 5210 (c) make assurances that the applicant:
- 5211 (i) is not engaging in illegal gambling with respect to sporting events or gambling with  
5212 respect to a contest in which the applicant is participating;
- 5213 (ii) has not been found in a criminal or civil proceeding to have engaged in or  
5214 attempted to have engaged in any fraud or misrepresentation in connection with a contest or  
5215 any other sporting event; and
- 5216 (iii) has not been found in a criminal or civil proceeding to have violated or attempted  
5217 to violate any law with respect to a contest in any jurisdiction or any law, rule, or order relating  
5218 to the regulation of contests in this state or any other jurisdiction;
- 5219 (d) acknowledge in writing to the commission receipt, understanding, and intent to  
5220 comply with this chapter and the rules made under this chapter; and
- 5221 (e) if requested by the commission or director, meet with the commission or the  
5222 director to examine the applicant's qualifications for licensure.
- 5223 (7) Each applicant for licensure as a referee or judge shall:
- 5224 (a) submit an application in a form prescribed by the commission;
- 5225 (b) pay a fee determined by the commission under Section [63J-1-504](#);
- 5226 (c) make assurances that the applicant:
- 5227 (i) is not engaging in illegal gambling with respect to sporting events or gambling with  
5228 respect to a contest in which the applicant is participating;
- 5229 (ii) has not been found in a criminal or civil proceeding to have engaged in or  
5230 attempted to have engaged in any fraud or misrepresentation in connection with a contest or  
5231 any other sporting event; and
- 5232 (iii) has not been found in a criminal or civil proceeding to have violated or attempted  
5233 to violate any law with respect to contests in any jurisdiction or any law, rule, or order relating  
5234 to the regulation of contests in this state or any other jurisdiction;
- 5235 (d) acknowledge in writing to the commission receipt, understanding, and intent to

5236 comply with this chapter and the rules made under this chapter;

5237 (e) provide evidence satisfactory to the commission that the applicant is qualified by  
5238 training and experience to competently act as a referee or judge in a contest; and

5239 (f) if requested by the commission or the director, meet with the commission or the  
5240 director to examine the applicant's qualifications for licensure.

5241 (8) The commission may make rules concerning the requirements for a license under  
5242 this chapter, that deny a license to an applicant for the violation of a crime that, in the  
5243 commission's determination, would have a material affect on the integrity of a contest held  
5244 under this chapter.

5245 (9) (a) A licensee serves at the pleasure, and under the direction, of the commission  
5246 while participating in any way at a contest.

5247 (b) A licensee's license may be suspended, or a fine imposed, if the licensee does not  
5248 follow the commission's direction at an event or contest.

5249 Section 85. Section **67-5b-105** is amended to read:

5250 **67-5b-105. Local advisory boards -- Membership.**

5251 (1) The cooperating public agencies and other persons shall make up each center's local  
5252 advisory board, which shall be composed of the following people from the county or area:

5253 (a) the local center director or the director's designee;

5254 (b) a district attorney or county attorney having criminal jurisdiction or any designee;

5255 (c) a representative of the attorney general's office, designated by the attorney general;

5256 (d) at least one official from a local law enforcement agency or the local law  
5257 enforcement agency's designee;

5258 (e) the county executive or the county executive's designee;

5259 (f) a licensed nurse practitioner, physician assistant, or physician;

5260 (g) a licensed mental health professional;

5261 (h) a criminal defense attorney;

5262 (i) at least four members of the community at large provided, however, that the  
5263 Advisory Board on Children's Justice may authorize fewer members, although not less than  
5264 two, if the local advisory board so requests;

5265 (j) a guardian ad litem or representative of the Office of Guardian Ad Litem,  
5266 designated by the director;

5267 (k) a representative of the Division of Child and Family Services within the  
5268 Department of Human Services, designated by the employee of the division who has  
5269 supervisory responsibility for the county served by the center;

5270 (l) if a center serves more than one county, one representative from each county served,  
5271 appointed by the county executive; and

5272 (m) additional members appointed as needed by the county executive.

5273 (2) The members on each local advisory board who serve due to public office as  
5274 provided in Subsections (1)(b) through (e) shall select the remaining members. The members  
5275 on each local advisory board shall select a chair of the local advisory board.

5276 (3) The local advisory board may not supersede the authority of the contracting county  
5277 as designated in Section [67-5b-104](#).

5278 (4) Appointees and designees shall serve a term or terms as designated in the bylaws of  
5279 the local advisory board.

5280 Section 86. Section **67-5b-106** is amended to read:

5281 **67-5b-106. Advisory Board on Children's Justice -- Membership -- Terms --**  
5282 **Duties -- Authority.**

5283 (1) The attorney general shall create an Advisory Board on Children's Justice to advise  
5284 him about the Children's Justice Center Program.

5285 (2) The board shall be composed of:

5286 (a) the director of each Children's Justice Center;

5287 (b) the attorney general or the attorney general's designee;

5288 (c) a representative of the Utah Sheriffs Association, appointed by the attorney general;

5289 (d) a chief of police, appointed by the attorney general;

5290 (e) one juvenile court judge and one district court judge, appointed by the chief justice  
5291 of the Supreme Court;

5292 (f) one representative of the Office of Guardian Ad Litem and one representative of the  
5293 Court Appointed Special Advocates, appointed by the chief justice of the Supreme Court;

5294 (g) a designated representative of the Division of Child and Family Services within the  
5295 Department of Human Services, appointed by the director of that division;

5296 (h) a licensed mental health professional, appointed by the attorney general;

5297 (i) a person experienced in working with children with disabilities, appointed by the

5298 attorney general;

5299 (j) one criminal defense attorney, licensed by the Utah State Bar and in good standing,  
5300 appointed by the Utah Bar Commission;

5301 (k) one criminal prosecutor, licensed by the Utah State Bar and in good standing,  
5302 appointed by the Utah Prosecution Council;

5303 (l) a member of the governor's staff, appointed by the governor;

5304 (m) a member from the public, appointed by the attorney general, who exhibits  
5305 sensitivity to the concerns of parents;

5306 (n) a licensed nurse practitioner, physician assistant, or physician, appointed by the  
5307 attorney general;

5308 (o) one senator, appointed by the president of the Senate;

5309 (p) one representative, appointed by the speaker of the House; and

5310 (q) additional members appointed as needed by the attorney general.

5311 (3) (a) Except as required by Subsection (3)(b), as terms of current board members  
5312 expire, the appointing authority shall appoint each new member or reappointed member to a  
5313 four-year term.

5314 (b) Notwithstanding the requirements of Subsection (3)(a), the appointing authority  
5315 shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the  
5316 terms of board members are staggered so that approximately half of the board is appointed  
5317 every two years.

5318 (4) The Advisory Board on Children's Justice shall:

5319 (a) coordinate and support the statewide purpose of the program;

5320 (b) recommend statewide guidelines for the administration of the program;

5321 (c) recommend training and improvements in training;

5322 (d) review, evaluate, and make recommendations concerning state investigative,  
5323 administrative, and judicial handling in child abuse cases;

5324 (e) recommend programs to improve the prompt and fair resolution of civil and  
5325 criminal court proceedings; and

5326 (f) recommend changes to state laws and procedures to provide comprehensive  
5327 protection for children from abuse, child sexual abuse, neglect, and other crimes involving  
5328 children where the child is a primary victim or a critical witness, such as in drug-related child

5329 endangerment cases.

5330 (5) The Advisory Board on Children's Justice may not supersede the authority of  
5331 contracting counties regarding operation of the centers, including the budget, costs, personnel,  
5332 and management pursuant to Section 67-5b-104 and Title 51, Chapter 2a, Accounting Reports  
5333 from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

5334 Section 87. Section 75-5-303 is amended to read:

5335 **75-5-303. Procedure for court appointment of a guardian of an incapacitated**  
5336 **person.**

5337 (1) An incapacitated person or any person interested in the incapacitated person's  
5338 welfare may petition for a finding of incapacity and appointment of a guardian.

5339 (2) (a) Upon the filing of a petition, the court shall set a date for hearing on the issues  
5340 of incapacity.

5341 (b) Unless the allegedly incapacitated person has counsel of the person's own choice,  
5342 the court shall appoint an attorney to represent the person in the proceeding the cost of which  
5343 shall be paid by the person alleged to be incapacitated, unless the allegedly incapacitated  
5344 person and the allegedly incapacitated person's parents are indigent.

5345 (c) If the court determines that the petition is without merit, the attorney fees and court  
5346 costs shall be paid by the person filing the petition.

5347 (d) If the court appoints the petitioner or the petitioner's nominee as guardian of the  
5348 incapacitated person, regardless of whether the nominee is specified in the moving petition or  
5349 nominated during the proceedings, the petitioner shall be entitled to receive from the  
5350 incapacitated person reasonable attorney fees and court costs incurred in bringing, prosecuting,  
5351 or defending the petition.

5352 (3) The legal representation of the incapacitated person by an attorney shall terminate  
5353 upon the appointment of a guardian, unless:

5354 (a) there are separate conservatorship proceedings still pending before the court  
5355 subsequent to the appointment of a guardian;

5356 (b) there is a timely filed appeal of the appointment of the guardian or the  
5357 determination of incapacity; or

5358 (c) upon an express finding of good cause, the court orders otherwise.

5359 (4) The person alleged to be incapacitated may be examined by a physician or

5360 physician assistant appointed by the court who shall submit a report in writing to the court and  
5361 may be interviewed by a visitor sent by the court. The visitor also may interview the person  
5362 seeking appointment as guardian, visit the present place of abode of the person alleged to be  
5363 incapacitated and the place it is proposed that the person will be detained or reside if the  
5364 requested appointment is made, conduct other investigations or observations as directed by the  
5365 court, and submit a report in writing to the court.

5366 (5) (a) The person alleged to be incapacitated shall be present at the hearing in person  
5367 and see or hear all evidence bearing upon the person's condition. If the person seeking the  
5368 guardianship requests a waiver of presence of the person alleged to be incapacitated, the court  
5369 shall order an investigation by a court visitor, the costs of which shall be paid by the person  
5370 seeking the guardianship.

5371 (b) The investigation by a court visitor is not required if there is clear and convincing  
5372 evidence from a physician or physician assistant that the person alleged to be incapacitated has:

5373 (i) fourth stage Alzheimer's Disease;

5374 (ii) extended comatosis; or

5375 (iii) (A) an intellectual disability; and

5376 (B) an intelligence quotient score under 25.

5377 (c) The person alleged to be incapacitated is entitled to be represented by counsel, to  
5378 present evidence, to cross-examine witnesses, including the court-appointed physician or  
5379 physician assistant and the visitor, and to trial by jury. The issue may be determined at a closed  
5380 hearing without a jury if the person alleged to be incapacitated or the person's counsel so  
5381 requests.

5382 (d) Counsel for the person alleged to be incapacitated, as defined in Subsection  
5383 [75-1-201\(22\)](#), is not required if:

5384 (i) the person is the biological or adopted child of the petitioner;

5385 (ii) the value of the person's entire estate does not exceed \$20,000 as established by an  
5386 affidavit of the petitioner in accordance with Section [75-3-1201](#);

5387 (iii) the person appears in court with the petitioner;

5388 (iv) the person is given the opportunity to communicate, to the extent possible, the  
5389 person's acceptance of the appointment of petitioner;

5390 (v) no attorney from the state court's list of attorneys who have volunteered to represent

5391 respondents in guardianship proceedings is able to provide counsel to the person within 60  
5392 days of the date of the appointment described in Subsection (2);

5393 (vi) the court is satisfied that counsel is not necessary in order to protect the interests of  
5394 the person; and

5395 (vii) the court appoints a visitor under Subsection (4).

5396 Section 88. Section **75-5-316** is amended to read:

5397 **75-5-316. Expedited guardianship proceedings.**

5398 (1) (a) With regard to persons who are residents of the Utah State Developmental  
5399 Center, the expedited process provided by this section may be applied to obtain a limited  
5400 guardianship.

5401 (b) For purposes of this section:

5402 (i) "Limited guardianship" means a guardianship solely for the purpose of granting  
5403 consent for medical care and for participation in approval of the ward's individualized program  
5404 plan.

5405 (ii) "Ward" means a resident of the Utah State Developmental Center who is the  
5406 subject of guardianship proceedings under this section.

5407 (2) Any person interested in the incapacitated person's welfare may file a petition for a  
5408 finding of incapacity and appointment of a guardian. That person may seek the limited  
5409 guardianship pro se, using the forms described in this section. Any fee for filing a petition for a  
5410 limited guardianship shall be waived if the guardian is proceeding under this section.

5411 (3) Upon filing a petition for limited guardianship under this section, the court shall set  
5412 a date for hearing.

5413 (4) The ward has the right to be present at the hearing and to see and hear all evidence  
5414 relating to his condition.

5415 (5) At that hearing the court shall review the affidavit of the superintendent of the Utah  
5416 State Developmental Center, described in Subsection (11), and determine whether notice has  
5417 been given to the appropriate persons described in Subsection (6).

5418 (6) If the proposed guardian is not a parent or relative of the ward, personal notice shall  
5419 be given to the ward's spouse, parents, and any adult children of the ward. Personal notice  
5420 shall also be given to other persons as the court may direct.

5421 (7) The court may, in its discretion, appoint a guardian ad litem to represent the ward in

5422 the hearing, and may request independent evaluation by a physician or physician assistant  
5423 appointed by the court. The physician or physician assistant shall submit his findings to the  
5424 court in writing.

5425 (8) The court may grant the petition for a limited guardianship and sign the Order of  
5426 Appointment if the court finds that:

5427 (a) the appropriate parties have been given notice;

5428 (b) the ward is incapacitated, based on the affidavit of the superintendent of the Utah  
5429 State Developmental Center and any affidavit or testimony of persons entitled to receive notice  
5430 or requested to present evidence under this section; and

5431 (c) it is necessary and desirable to establish the guardianship.

5432 (9) Venue for these expedited guardianship proceedings shall be the same as that  
5433 described in Section [75-5-302](#).

5434 (10) A petition for a limited guardianship shall include the following information:

5435 (a) the interest of the petitioner;

5436 (b) the name, age, residence, and address of the ward;

5437 (c) verification that the ward is a resident of the Utah State Developmental Center;

5438 (d) the name and address of the nearest relative of the ward; and

5439 (e) the reason for appointment of guardianship.

5440 (11) The petitioner shall also provide the court with an affidavit of the superintendent  
5441 of the Utah State Developmental Center that includes the following information:

5442 (a) that the ward is a resident of the Utah State Developmental Center;

5443 (b) the date the ward was originally admitted to the Utah State Developmental Center;

5444 (c) the diagnosis of the ward, including a description of the ward's disabling condition,  
5445 the level of the ward's intellectual disability, and any medical or physical conditions of the  
5446 ward;

5447 (d) that the Utah State Developmental Center is certified as an intermediate care  
5448 facility for people with an intellectual disability;

5449 (e) that because of that certification, the Utah State Developmental Center receives  
5450 financial participation from the United States Government for its operation and maintenance  
5451 costs; and

5452 (f) that federal regulations under Title XIX require the ward to have a guardian

5453 appointed for the sole purpose of giving consent for medical and dental care and of  
5454 participation in and approval of the ward's individual program plan.

5455 (12) If the court finds that, under the requirements of this section the proposed limited  
5456 guardian should be appointed, it shall enter an order establishing that limited guardianship in  
5457 substantially the following form:

5458 The court finds that:

5459 (a) appointment of a limited guardianship for (named ward) is necessary and desirable  
5460 as a means of providing continuing care and supervision and to ensure his welfare;

5461 (b) the ward is incapacitated;

5462 (c) (named guardian) is appointed as the limited guardian of (named ward); and

5463 (d) the guardianship is a limited guardianship solely for the purpose of:

5464 (i) granting permission for medical and dental care on behalf of the ward; and

5465 (ii) participation in the development and approval of the ward's individual program  
5466 plan.

5467 (13) Appointment of guardianship under this section places no additional responsibility  
5468 or liability on the guardian with regard to the ward. The limited guardianship is solely for  
5469 consent for medical care and approval of the ward's individualized program plan, and shall not  
5470 be construed to increase or create liability or responsibility for the guardian.

5471 Section 89. Section **75-5-317** is amended to read:

5472 **75-5-317. Guardianship proceedings for minor becoming an incapacitated adult.**

5473 (1) As used in this section:

5474 (a) "Incapacitated" means the same as that term is defined in Section [75-1-201](#).

5475 (b) "Joint legal decision-making" means parents or two individuals, regardless of  
5476 whether they are married, sharing legal decision-making and no individual's rights or  
5477 responsibilities being superior except with respect to specified decisions set forth by the court  
5478 or the individuals in a final judgment or order.

5479 (c) "Legal decision-making" means the legal right and responsibility to make all  
5480 nonemergency legal decisions for a minor including those regarding education, health care,  
5481 religious training, and personal care decisions.

5482 (d) "Minor" means the same as that term is defined in Section [75-1-201](#).

5483 (e) "Physician" means an individual:

5484 (i) licensed as a physician under Title 58, Chapter 67, Utah Medical Practice Act; or  
5485 (ii) licensed as a physician under Title 58, Chapter 68, Utah Osteopathic Medical  
5486 Practice Act.

5487 (f) "Psychologist" means a person licensed under Title 58, Chapter 61, Psychologist  
5488 Licensing Act, to engage in the practice of psychology as defined in Section 58-61-102.

5489 (g) "Sole legal decision-making" means one parent or one individual having the legal  
5490 right and responsibility to make major decisions for the minor child.

5491 (2) (a) Notwithstanding the other provisions of this part, a person who may be a  
5492 guardian of an incapacitated person under Section 75-5-301 may initiate guardianship  
5493 proceedings pursuant to this Subsection (2) for a minor who is at least 17 years, six months of  
5494 age and who is alleged to be incapacitated and request that a guardianship order take effect  
5495 immediately on the day the minor turns 18 years of age.

5496 (b) The petitioner shall provide with the petition a written report of an evaluation of the  
5497 minor by a physician, physician assistant, or psychologist that meets the requirements of  
5498 Subsection (2)(c). If the evaluation is conducted within six months after the date the petition is  
5499 filed with the court, the petitioner may ask in the petition that the court accept this report in lieu  
5500 of ordering any additional evaluation and the court may grant the request.

5501 (c) A written report filed pursuant to this section by a physician, physician assistant, or  
5502 psychologist acting within that person's scope of practice shall include the following  
5503 information:

5504 (i) a specific description of the physical, psychiatric, or psychological diagnosis of the  
5505 person;

5506 (ii) a comprehensive assessment listing any functional impairments of the alleged  
5507 incapacitated person and an explanation of how and to what extent these functional  
5508 impairments may prevent that person from receiving or evaluating information in making  
5509 decisions or in communicating informed decisions, with or without assistance, regarding that  
5510 person;

5511 (iii) an analysis of the tasks of daily living the alleged incapacitated person is capable  
5512 of performing independently or with assistance;

5513 (iv) a list of the medications the alleged incapacitated person is receiving, the dosage of  
5514 the medications, and a description of the effects each medication has on the person's behavior

5515 to the best of the declarant's knowledge;

5516 (v) a prognosis for improvement in the alleged incapacitated person's condition and a  
5517 recommendation for the most appropriate rehabilitation plan or care plan; and

5518 (vi) other information the physician, physician assistant, or psychologist considers  
5519 appropriate.

5520 (3) (a) Notwithstanding the priorities in Section 75-5-311, if the petition for  
5521 appointment of a guardian for the incapacitated person is filed pursuant to Subsection (2) or  
5522 within two years after the day the incapacitated person turns 18 years of age, unless the court  
5523 finds the appointment to be contrary to the incapacitated person's best interest:

5524 (i) the court shall appoint as the incapacitated person's guardian any person who, by  
5525 court order, had sole legal decision-making of the incapacitated person when the incapacitated  
5526 person attained 17 years, six months of age; or

5527 (ii) if two individuals had joint legal decision-making of the incapacitated person when  
5528 the incapacitated person attained 17 years, six months of age, the court shall appoint both  
5529 individuals as the incapacitated person's coguardians.

5530 (b) If under Subsection (3)(a) the court finds the appointment of an individual  
5531 described in Subsection (3)(a) is contrary to the incapacitated person's best interest or if the  
5532 individual is unwilling to be appointed or serve as a guardian, the court may apply the priorities  
5533 in Section 75-5-311 in appointing a guardian.

5534 (4) The court may appoint more than one person as the incapacitated person's  
5535 coguardians if the appointment is required by Subsection (3) or the court finds that the  
5536 appointment is in the incapacitated person's best interest. If the court appoints coguardians, the  
5537 coguardians shall share legal decision-making for the incapacitated person and neither  
5538 coguardian's rights or responsibilities are superior except as otherwise ordered by the court.

5539 Section 90. Section 75-9-109 is amended to read:

5540 **75-9-109. When power of attorney is effective.**

5541 (1) A power of attorney is effective when executed unless the principal provides in the  
5542 power of attorney that it becomes effective at a future date or upon the occurrence of a future  
5543 event or contingency.

5544 (2) If a power of attorney becomes effective upon the occurrence of a future event or  
5545 contingency, the principal, in the power of attorney, may authorize one or more persons to

5546 determine in a writing or other record that the event or contingency has occurred.

5547 (3) If a power of attorney becomes effective upon the principal's incapacity and the  
5548 principal has not authorized a person to determine whether the principal is incapacitated, or the  
5549 person authorized is unable or unwilling to make the determination, the power of attorney  
5550 becomes effective upon a determination in a writing or other record by:

5551 (a) a physician or physician assistant that the principal is incapacitated within the  
5552 meaning of Subsection 75-9-102(5)(a); or

5553 (b) an attorney at law, a judge, or an appropriate governmental official that the  
5554 principal is incapacitated within the meaning of Subsection 75-9-102(5)(b).

5555 (4) A person authorized by the principal in the power of attorney to determine that the  
5556 principal is incapacitated may act as the principal's personal representative pursuant to the  
5557 Health Insurance Portability and Accountability Act, Sections 1171 through 1179 of the Social  
5558 Security Act, 42 U.S.C. Sec. 1320d, and applicable regulations, to obtain access to the  
5559 principal's health care information and communicate with the principal's health care provider.

5560 Section 91. Section 76-5-110 is amended to read:

5561 **76-5-110. Abuse or neglect of a child with a disability.**

5562 (1) As used in this section:

5563 (a) "Abuse" means:

5564 (i) inflicting physical injury, as that term is defined in Section 76-5-109;

5565 (ii) having the care or custody of a child with a disability, causing or permitting another  
5566 to inflict physical injury, as that term is defined in Section 76-5-109; or

5567 (iii) unreasonable confinement.

5568 (b) "Caretaker" means:

5569 (i) any parent, legal guardian, or other person having under that person's care and  
5570 custody a child with a disability; or

5571 (ii) any person, corporation, or public institution that has assumed by contract or court  
5572 order the responsibility to provide food, shelter, clothing, medical, and other necessities to a  
5573 child with a disability.

5574 (c) "Child with a disability" means any person under 18 years of age who is impaired  
5575 because of mental illness, mental deficiency, physical illness or disability, or other cause, to the  
5576 extent that the person is unable to care for the person's own personal safety or to provide

5577 necessities such as food, shelter, clothing, and medical care.

5578 (d) "Neglect" means failure by a caretaker to provide care, nutrition, clothing, shelter,  
5579 supervision, or medical care.

5580 (2) Any caretaker who intentionally, knowingly, or recklessly abuses or neglects a child  
5581 with a disability is guilty of a third degree felony.

5582 (3) (a) A parent or legal guardian who provides a child with treatment by spiritual  
5583 means alone through prayer, in lieu of medical treatment, in accordance with the tenets and  
5584 practices of an established church or religious denomination of which the parent or legal  
5585 guardian is a member or adherent shall not, for that reason alone, be considered to be in  
5586 violation under this section.

5587 (b) Subject to Subsection 78A-6-117(2)(n)(iii), the exception under Subsection (3)(a)  
5588 does not preclude a court from ordering medical services from a physician or physician  
5589 assistant licensed to engage in the practice of medicine to be provided to the child where there  
5590 is substantial risk of harm to the child's health or welfare if the treatment is not provided.

5591 (c) A caretaker of a child with a disability does not violate this section by selecting a  
5592 treatment option for a medical condition of a child with a disability, if the treatment option is  
5593 one that a reasonable caretaker would believe to be in the best interest of the child with a  
5594 disability.

5595 Section 92. Section 76-5-111 is amended to read:

5596 **76-5-111. Abuse, neglect, or exploitation of a vulnerable adult -- Penalties.**

5597 (1) As used in this section:

5598 (a) "Abandonment" means a knowing or intentional action or inaction, including  
5599 desertion, by a person or entity acting as a caretaker for a vulnerable adult that leaves the  
5600 vulnerable adult without the means or ability to obtain necessary food, clothing, shelter, or  
5601 medical or other health care.

5602 (b) "Abuse" means:

5603 (i) attempting to cause harm, intentionally or knowingly causing harm, or intentionally  
5604 or knowingly placing another in fear of imminent harm;

5605 (ii) causing physical injury by knowing or intentional acts or omissions;

5606 (iii) unreasonable or inappropriate use of physical restraint, medication, or isolation  
5607 that causes or is likely to cause harm to a vulnerable adult that is in conflict with a physician's

5608 or physician assistant's orders or used as an unauthorized substitute for treatment, unless that  
5609 conduct furthers the health and safety of the adult; or

5610 (iv) deprivation of life-sustaining treatment, except:

5611 (A) as provided in Title 75, Chapter 2a, Advance Health Care Directive Act; or

5612 (B) when informed consent, as defined in this section, has been obtained.

5613 (c) "Business relationship" means a relationship between two or more individuals or  
5614 entities where there exists an oral or written agreement for the exchange of goods or services.

5615 (d) (i) "Caretaker" means any person, entity, corporation, or public institution that  
5616 assumes the responsibility to provide a vulnerable adult with care, food, shelter, clothing,  
5617 supervision, medical or other health care, or other necessities.

5618 (ii) "Caretaker" includes a relative by blood or marriage, a household member, a person  
5619 who is employed or who provides volunteer work, or a person who contracts or is under court  
5620 order to provide care.

5621 (e) "Deception" means:

5622 (i) a misrepresentation or concealment:

5623 (A) of a material fact relating to services rendered, disposition of property, or use of  
5624 property intended to benefit a vulnerable adult;

5625 (B) of the terms of a contract or agreement entered into with a vulnerable adult; or

5626 (C) relating to the existing or preexisting condition of any property involved in a  
5627 contract or agreement entered into with a vulnerable adult; or

5628 (ii) the use or employment of any misrepresentation, false pretense, or false promise in  
5629 order to induce, encourage, or solicit a vulnerable adult to enter into a contract or agreement.

5630 (f) "Elder adult" means a person 65 years of age or older.

5631 (g) "Endeavor" means to attempt or try.

5632 (h) "Exploitation" means an offense described in Subsection (4) or Section [76-5b-202](#).

5633 (i) "Harm" means pain, mental anguish, emotional distress, hurt, physical or  
5634 psychological damage, physical injury, suffering, or distress inflicted knowingly or  
5635 intentionally.

5636 (j) "Informed consent" means:

5637 (i) a written expression by the person or authorized by the person, stating that the  
5638 person fully understands the potential risks and benefits of the withdrawal of food, water,

5639 medication, medical services, shelter, cooling, heating, or other services necessary to maintain  
5640 minimum physical or mental health, and that the person desires that the services be withdrawn.  
5641 A written expression is valid only if the person is of sound mind when the consent is given, and  
5642 the consent is witnessed by at least two individuals who do not benefit from the withdrawal of  
5643 services; or

5644 (ii) consent to withdraw food, water, medication, medical services, shelter, cooling,  
5645 heating, or other services necessary to maintain minimum physical or mental health, as  
5646 permitted by court order.

5647 (k) "Intimidation" means communication conveyed through verbal or nonverbal  
5648 conduct which threatens deprivation of money, food, clothing, medicine, shelter, social  
5649 interaction, supervision, health care, or companionship, or which threatens isolation or harm.

5650 (l) (i) "Isolation" means knowingly or intentionally preventing a vulnerable adult from  
5651 having contact with another person by:

5652 (A) preventing the vulnerable adult from receiving visitors, mail, or telephone calls,  
5653 contrary to the express wishes of the vulnerable adult, including communicating to a visitor  
5654 that the vulnerable adult is not present or does not want to meet with or talk to the visitor,  
5655 knowing that communication to be false;

5656 (B) physically restraining the vulnerable adult in order to prevent the vulnerable adult  
5657 from meeting with a visitor; or

5658 (C) making false or misleading statements to the vulnerable adult in order to induce the  
5659 vulnerable adult to refuse to receive communication from visitors or other family members.

5660 (ii) The term "isolation" does not include an act intended to protect the physical or  
5661 mental welfare of the vulnerable adult or an act performed pursuant to the treatment plan or  
5662 instructions of a physician, physician assistant, or other professional advisor of the vulnerable  
5663 adult.

5664 (m) "Lacks capacity to consent" means an impairment by reason of mental illness,  
5665 developmental disability, organic brain disorder, physical illness or disability, chronic use of  
5666 drugs, chronic intoxication, short-term memory loss, or other cause to the extent that a  
5667 vulnerable adult lacks sufficient understanding of the nature or consequences of decisions  
5668 concerning the adult's person or property.

5669 (n) "Neglect" means:

- 5670 (i) failure of a caretaker to provide nutrition, clothing, shelter, supervision, personal  
5671 care, or dental or other health care, or failure to provide protection from health and safety  
5672 hazards or maltreatment;
- 5673 (ii) failure of a caretaker to provide care to a vulnerable adult in a timely manner and  
5674 with the degree of care that a reasonable person in a like position would exercise;
- 5675 (iii) a pattern of conduct by a caretaker, without the vulnerable adult's informed  
5676 consent, resulting in deprivation of food, water, medication, health care, shelter, cooling,  
5677 heating, or other services necessary to maintain the vulnerable adult's well being;
- 5678 (iv) intentional failure by a caretaker to carry out a prescribed treatment plan that  
5679 results or could result in physical injury or physical harm; or
- 5680 (v) abandonment by a caretaker.
- 5681 (o) "Physical injury" includes damage to any bodily tissue caused by nontherapeutic  
5682 conduct, to the extent that the tissue must undergo a healing process in order to be restored to a  
5683 sound and healthy condition, or damage to any bodily tissue to the extent that the tissue cannot  
5684 be restored to a sound and healthy condition. "Physical injury" includes skin bruising, a  
5685 dislocation, physical pain, illness, impairment of physical function, a pressure sore, bleeding,  
5686 malnutrition, dehydration, a burn, a bone fracture, a subdural hematoma, soft tissue swelling,  
5687 injury to any internal organ, or any other physical condition that imperils the health or welfare  
5688 of the vulnerable adult and is not a serious physical injury as defined in this section.
- 5689 (p) "Position of trust and confidence" means the position of a person who:
- 5690 (i) is a parent, spouse, adult child, or other relative by blood or marriage of a vulnerable  
5691 adult;
- 5692 (ii) is a joint tenant or tenant in common with a vulnerable adult;
- 5693 (iii) has a legal or fiduciary relationship with a vulnerable adult, including a  
5694 court-appointed or voluntary guardian, trustee, attorney, or conservator; or
- 5695 (iv) is a caretaker of a vulnerable adult.
- 5696 (q) "Serious physical injury" means any physical injury or set of physical injuries that:
- 5697 (i) seriously impairs a vulnerable adult's health;
- 5698 (ii) was caused by use of a dangerous weapon as defined in Section [76-1-601](#);
- 5699 (iii) involves physical torture or causes serious emotional harm to a vulnerable adult; or
- 5700 (iv) creates a reasonable risk of death.

5701 (r) "Undue influence" occurs when a person uses the person's role, relationship, or  
5702 power to exploit, or knowingly assist or cause another to exploit, the trust, dependency, or fear  
5703 of a vulnerable adult, or uses the person's role, relationship, or power to gain control  
5704 deceptively over the decision making of the vulnerable adult.

5705 (s) "Vulnerable adult" means an elder adult, or an adult 18 years of age or older who  
5706 has a mental or physical impairment which substantially affects that person's ability to:

5707 (i) provide personal protection;

5708 (ii) provide necessities such as food, shelter, clothing, or medical or other health care;

5709 (iii) obtain services necessary for health, safety, or welfare;

5710 (iv) carry out the activities of daily living;

5711 (v) manage the adult's own resources; or

5712 (vi) comprehend the nature and consequences of remaining in a situation of abuse,  
5713 neglect, or exploitation.

5714 (2) Under any circumstances likely to produce death or serious physical injury, any  
5715 person, including a caretaker, who causes a vulnerable adult to suffer serious physical injury or,  
5716 having the care or custody of a vulnerable adult, causes or permits that adult's person or health  
5717 to be injured, or causes or permits a vulnerable adult to be placed in a situation where the  
5718 adult's person or health is endangered, is guilty of the offense of aggravated abuse of a  
5719 vulnerable adult as follows:

5720 (a) if done intentionally or knowingly, the offense is a second degree felony;

5721 (b) if done recklessly, the offense is third degree felony; and

5722 (c) if done with criminal negligence, the offense is a class A misdemeanor.

5723 (3) Under circumstances other than those likely to produce death or serious physical  
5724 injury any person, including a caretaker, who causes a vulnerable adult to suffer harm, abuse,  
5725 or neglect; or, having the care or custody of a vulnerable adult, causes or permits that adult's  
5726 person or health to be injured, abused, or neglected, or causes or permits a vulnerable adult to  
5727 be placed in a situation where the adult's person or health is endangered, is guilty of the offense  
5728 of abuse of a vulnerable adult as follows:

5729 (a) if done intentionally or knowingly, the offense is a class A misdemeanor;

5730 (b) if done recklessly, the offense is a class B misdemeanor; and

5731 (c) if done with criminal negligence, the offense is a class C misdemeanor.

5732 (4) (a) A person commits the offense of exploitation of a vulnerable adult when the  
5733 person:

5734 (i) is in a position of trust and confidence, or has a business relationship, with the  
5735 vulnerable adult or has undue influence over the vulnerable adult and knowingly, by deception  
5736 or intimidation, obtains or uses, or endeavors to obtain or use, the vulnerable adult's funds,  
5737 credit, assets, or other property with the intent to temporarily or permanently deprive the  
5738 vulnerable adult of the use, benefit, or possession of the adult's property, for the benefit of  
5739 someone other than the vulnerable adult;

5740 (ii) knows or should know that the vulnerable adult lacks the capacity to consent, and  
5741 obtains or uses, or endeavors to obtain or use, or assists another in obtaining or using or  
5742 endeavoring to obtain or use, the vulnerable adult's funds, assets, or property with the intent to  
5743 temporarily or permanently deprive the vulnerable adult of the use, benefit, or possession of his  
5744 property for the benefit of someone other than the vulnerable adult;

5745 (iii) unjustly or improperly uses or manages the resources of a vulnerable adult for the  
5746 profit or advantage of someone other than the vulnerable adult;

5747 (iv) unjustly or improperly uses a vulnerable adult's power of attorney or guardianship  
5748 for the profit or advantage of someone other than the vulnerable adult; or

5749 (v) involves a vulnerable adult who lacks the capacity to consent in the facilitation or  
5750 furtherance of any criminal activity.

5751 (b) A person is guilty of the offense of exploitation of a vulnerable adult as follows:

5752 (i) if done intentionally or knowingly and the aggregate value of the resources used or  
5753 the profit made is or exceeds \$5,000, the offense is a second degree felony;

5754 (ii) if done intentionally or knowingly and the aggregate value of the resources used or  
5755 the profit made is less than \$5,000 or cannot be determined, the offense is a third degree  
5756 felony;

5757 (iii) if done recklessly, the offense is a class A misdemeanor; or

5758 (iv) if done with criminal negligence, the offense is a class B misdemeanor.

5759 (5) It does not constitute a defense to a prosecution for any violation of this section that  
5760 the accused did not know the age of the victim.

5761 (6) An adult is not considered abused, neglected, or a vulnerable adult for the reason  
5762 that the adult has chosen to rely solely upon religious, nonmedical forms of healing in lieu of

5763 medical care.

5764 Section 93. Section **76-5-406** is amended to read:

5765 **76-5-406. Sexual offenses against the victim without consent of victim --**

5766 **Circumstances.**

5767 An act of sexual intercourse, rape, attempted rape, rape of a child, attempted rape of a  
5768 child, object rape, attempted object rape, object rape of a child, attempted object rape of a  
5769 child, sodomy, attempted sodomy, forcible sodomy, attempted forcible sodomy, sodomy on a  
5770 child, attempted sodomy on a child, forcible sexual abuse, attempted forcible sexual abuse,  
5771 sexual abuse of a child, attempted sexual abuse of a child, aggravated sexual abuse of a child,  
5772 attempted aggravated sexual abuse of a child, or simple sexual abuse is without consent of the  
5773 victim under any of the following circumstances:

5774 (1) the victim expresses lack of consent through words or conduct;

5775 (2) the actor overcomes the victim through the actual application of physical force or  
5776 violence;

5777 (3) the actor is able to overcome the victim through concealment or by the element of  
5778 surprise;

5779 (4) (a) (i) the actor coerces the victim to submit by threatening to retaliate in the  
5780 immediate future against the victim or any other person, and the victim perceives at the time  
5781 that the actor has the ability to execute this threat; or

5782 (ii) the actor coerces the victim to submit by threatening to retaliate in the future  
5783 against the victim or any other person, and the victim believes at the time that the actor has the  
5784 ability to execute this threat;

5785 (b) as used in this Subsection (4), "to retaliate" includes threats of physical force,  
5786 kidnapping, or extortion;

5787 (5) the actor knows the victim is unconscious, unaware that the act is occurring, or  
5788 physically unable to resist;

5789 (6) the actor knows or reasonably should know that the victim has a mental disease or  
5790 defect, which renders the victim unable to:

5791 (a) appraise the nature of the act;

5792 (b) resist the act;

5793 (c) understand the possible consequences to the victim's health or safety; or

5794 (d) appraise the nature of the relationship between the actor and the victim.  
5795 (7) the actor knows that the victim submits or participates because the victim  
5796 erroneously believes that the actor is the victim's spouse;  
5797 (8) the actor intentionally impaired the power of the victim to appraise or control his or  
5798 her conduct by administering any substance without the victim's knowledge;  
5799 (9) the victim is younger than 14 years of age;  
5800 (10) the victim is younger than 18 years of age and at the time of the offense the actor  
5801 was the victim's parent, stepparent, adoptive parent, or legal guardian or occupied a position of  
5802 special trust in relation to the victim as defined in Section [76-5-404.1](#);  
5803 (11) the victim is 14 years of age or older, but younger than 18 years of age, and the  
5804 actor is more than three years older than the victim and entices or coerces the victim to submit  
5805 or participate, under circumstances not amounting to the force or threat required under  
5806 Subsection (2) or (4); or  
5807 (12) the actor is a health professional or religious counselor, as those terms are defined  
5808 in this Subsection (12), the act is committed under the guise of providing professional  
5809 diagnosis, counseling, or treatment, and at the time of the act the victim reasonably believed  
5810 that the act was for medically or professionally appropriate diagnosis, counseling, or treatment  
5811 to the extent that resistance by the victim could not reasonably be expected to have been  
5812 manifested; for purposes of this Subsection (12):  
5813 (a) "health professional" means an individual who is licensed or who holds himself or  
5814 herself out to be licensed, or who otherwise provides professional physical or mental health  
5815 services, diagnosis, treatment, or counseling including, but not limited to, a physician,  
5816 osteopathic physician, physician assistant, nurse, dentist, physical therapist, chiropractor,  
5817 mental health therapist, social service worker, clinical social worker, certified social worker,  
5818 marriage and family therapist, professional counselor, psychiatrist, psychologist, psychiatric  
5819 mental health nurse specialist, or substance abuse counselor; and  
5820 (b) "religious counselor" means a minister, priest, rabbi, bishop, or other recognized  
5821 member of the clergy.  
5822 Section 94. Section **76-10-1506** is amended to read:  
5823 **76-10-1506. Threatening breach of peace -- Disorderly conduct -- Foul language**  
5824 **-- Refusing requests -- Use of controlled substance, liquor, or tobacco -- Ejection of**

5825 **passenger.**

5826 (1) A person is guilty of a class C misdemeanor, if the person:

5827 (a) threatens a breach of the peace, is disorderly, or uses obscene, profane, or vulgar  
5828 language on a bus;

5829 (b) is in or upon any bus while unlawfully under the influence of a controlled substance  
5830 as defined in Section 58-37-2;

5831 (c) fails to obey a reasonable request or order of a bus driver, bus company  
5832 representative, a nondrinking designee other than the driver as provided in Subsection  
5833 32B-4-415(4)(c)(ii), or other person in charge or control of a bus or terminal;

5834 (d) ingests any controlled substance, unless prescribed by a physician, physician  
5835 assistant, or medical facility, in or upon any bus, or drinks intoxicating liquor in or upon any  
5836 bus, except a chartered bus as defined and provided in Sections 32B-1-102 and 41-6a-526; or

5837 (e) smokes tobacco or other products in or upon any bus, except a chartered bus.

5838 (2) If any person violates Subsection (1), the driver of the bus or person in charge  
5839 thereof may stop at the place where the offense is committed or at the next regular or  
5840 convenient stopping place and remove such person, using only such force as may be necessary  
5841 to accomplish the removal, and the driver or person in charge may request the assistance of  
5842 passengers to assist in the removal.

5843 (3) The driver or person in charge may cause the person so removed to be detained and  
5844 delivered to the proper authorities.

5845 Section 95. Section 77-23-213 is amended to read:

5846 **77-23-213. Blood testing.**

5847 (1) As used in this section:

5848 (a) "Law enforcement purpose" means duties that consist primarily of the prevention  
5849 and detection of crime and the enforcement of criminal statutes or ordinances of this state or  
5850 any of this state's political subdivisions.

5851 (b) "Peace officer" means those persons specified in Title 53, Chapter 13, Peace  
5852 Officer Classification.

5853 (2) A peace officer may require an individual to submit to a blood test for a law  
5854 enforcement purpose only if:

5855 (a) the individual or legal representative of the individual with authority to give

5856 consent gives oral or written consent to the blood test;

5857 (b) the peace officer obtains a warrant to administer the blood test; or

5858 (c) a judicially recognized exception to obtaining a warrant exists as established by the

5859 Utah Court of Appeals, Utah Supreme Court, Court of Appeals of the Tenth Circuit, or the

5860 Supreme Court of the United States.

5861 (3) (a) Only the following, acting at the request of a peace officer, may draw blood to

5862 determine the blood's alcohol or drug content:

5863 (i) a physician;

5864 (ii) a physician assistant;

5865 [~~(ii)~~] (iii) a registered nurse;

5866 [~~(iii)~~] (iv) a licensed practical nurse;

5867 [~~(iv)~~] (v) a paramedic;

5868 [~~(v)~~] (vi) as provided in Subsection (3)(b), emergency medical service personnel other

5869 than a paramedic; or

5870 [~~(vi)~~] (vii) a person with a valid permit issued by the Department of Health under

5871 Section [26-1-30](#).

5872 (b) The Department of Health may designate by rule, in accordance with Title 63G,

5873 Chapter 3, Utah Administrative Rulemaking Act, which emergency medical service personnel,

5874 as defined in Section [26-8a-102](#), are authorized to draw blood under Subsection [~~(3)(a)(v)~~]

5875 (3)(a)(vi), based on the type of license under Section [26-8a-302](#).

5876 (c) The following are immune from civil or criminal liability arising from drawing a

5877 blood sample from a person who a peace officer requests, for law enforcement purposes, if the

5878 sample is drawn in accordance with standard medical practice:

5879 (i) a person authorized to draw blood under Subsection (3)(a); and

5880 (ii) if the blood is drawn at a hospital or other medical facility, the medical facility.

5881 Section 96. Section **78A-6-117** is amended to read:

5882 **78A-6-117. Adjudication of jurisdiction of juvenile court -- Disposition of cases --**

5883 **Enumeration of possible court orders -- Considerations of court.**

5884 (1) (a) When a minor is found to come within Section [78A-6-103](#), the court shall so

5885 adjudicate. The court shall make a finding of the facts upon which it bases its jurisdiction over

5886 the minor. However, in cases within Subsection [78A-6-103\(1\)](#), findings of fact are not

5887 necessary.

5888 (b) If the court adjudicates a minor for a crime of violence or an offense in violation of  
5889 Title 76, Chapter 10, Part 5, Weapons, it shall order that notice of the adjudication be provided  
5890 to the school superintendent of the district in which the minor resides or attends school. Notice  
5891 shall be made to the district superintendent within three days of the adjudication and shall  
5892 include:

5893 (i) the specific offenses for which the minor was adjudicated; and

5894 (ii) if available, if the victim:

5895 (A) resides in the same school district as the minor; or

5896 (B) attends the same school as the minor.

5897 (c) An adjudicated minor shall undergo a risk screening or, if indicated, a validated risk  
5898 and needs assessment. Results of the screening or assessment shall be used to inform  
5899 disposition decisions and case planning. Assessment results, if available, may not be shared  
5900 with the court before adjudication.

5901 (2) Upon adjudication the court may make the following dispositions by court order:

5902 (a) (i) the court may place the minor on probation or under protective supervision in  
5903 the minor's own home and upon conditions determined by the court, including community or  
5904 compensatory service;

5905 (ii) a condition ordered by the court under Subsection (2)(a)(i):

5906 (A) shall be individualized and address a specific risk or need;

5907 (B) shall be based on information provided to the court, including the results of a  
5908 validated risk and needs assessment conducted under Subsection (1)(c); and

5909 (C) if the court orders treatment, be based on a validated risk and needs assessment  
5910 conducted under Subsection (1)(c);

5911 (iii) a court may not issue a standard order that contains control-oriented conditions;

5912 (iv) prohibitions on weapon possession, where appropriate, shall be specific to the  
5913 minor and not the minor's family;

5914 (v) if the court orders probation, the court may direct that notice of the court's order be  
5915 provided to designated persons in the local law enforcement agency and the school or  
5916 transferee school, if applicable, that the minor attends. The designated persons may receive the  
5917 information for purposes of the minor's supervision and student safety; and

5918 (vi) an employee of the local law enforcement agency and the school that the minor  
5919 attends who discloses the court's order of probation is not:

5920 (A) civilly liable except when the disclosure constitutes fraud or willful misconduct as  
5921 provided in Section 63G-7-202; and

5922 (B) civilly or criminally liable except when the disclosure constitutes a knowing  
5923 violation of Section 63G-2-801.

5924 (b) The court may place the minor in the legal custody of a relative or other suitable  
5925 person, with or without probation or other court-specified child welfare services, but the  
5926 juvenile court may not assume the function of developing foster home services.

5927 (c) (i) The court shall only vest legal custody of the minor in the Division of Juvenile  
5928 Justice Services and order the Division of Juvenile Justice Services to provide dispositional  
5929 recommendations and services if:

5930 (A) nonresidential treatment options have been exhausted or nonresidential treatment  
5931 options are not appropriate; and

5932 (B) the minor is adjudicated under this section for a felony offense, a misdemeanor  
5933 when the minor has five prior misdemeanors or felony adjudications arising from separate  
5934 criminal episodes, or a misdemeanor involving the use of a dangerous weapon as defined in  
5935 Section 76-1-601.

5936 (ii) The court may not vest legal custody of a minor in the Division of Juvenile Justice  
5937 Services for:

5938 (A) contempt of court except to the extent permitted under Section 78A-6-1101;

5939 (B) a violation of probation;

5940 (C) failure to pay a fine, fee, restitution, or other financial obligation;

5941 (D) unfinished compensatory or community service hours;

5942 (E) an infraction; or

5943 (F) a status offense.

5944 (iii) (A) A minor who is 18 years old or older, but younger than 21 years old, may  
5945 petition the court to express the minor's desire to be removed from the jurisdiction of the  
5946 juvenile court and from the custody of the Division of Child and Family Services if the minor  
5947 is in the division's custody on grounds of abuse, neglect, or dependency.

5948 (B) If the minor's parent's rights have not been terminated in accordance with Part 5,

5949 Termination of Parental Rights Act, the minor's petition shall contain a statement from the  
5950 minor's parent or guardian agreeing that the minor should be removed from the custody of the  
5951 Division of Child and Family Services.

5952 (C) The minor and the minor's parent or guardian shall sign the petition.

5953 (D) The court shall review the petition within 14 days.

5954 (E) The court shall remove the minor from the custody of the Division of Child and  
5955 Family Services if the minor and the minor's parent or guardian have met the requirements  
5956 described in Subsections (2)(c)(iii)(B) and (C) and if the court finds, based on input from the  
5957 Division of Child and Family Services, the minor's guardian ad litem, and the Office of the  
5958 Attorney General, that the minor does not pose an imminent threat to self or others.

5959 (F) A minor removed from custody under Subsection (2)(c)(iii)(E) may, within 90 days  
5960 of the date of removal, petition the court to re-enter custody of the Division of Child and  
5961 Family Services.

5962 (G) Upon receiving a petition under Subsection (2)(c)(iii)(F), the court shall order the  
5963 Division of Child and Family Services to take custody of the minor based on the findings the  
5964 court entered when the court originally vested custody in the Division of Child and Family  
5965 Services.

5966 (d) (i) The court shall only commit a minor to the Division of Juvenile Justice Services  
5967 for secure confinement if the court finds that the minor poses a risk of harm to others and is  
5968 adjudicated under this section for:

5969 (A) a felony offense;

5970 (B) a misdemeanor if the minor has five prior misdemeanor or felony adjudications  
5971 arising from separate criminal episodes; or

5972 (C) a misdemeanor involving use of a dangerous weapon as defined in Section  
5973 [76-1-601](#).

5974 (ii) A minor under the jurisdiction of the court solely on the ground of abuse, neglect,  
5975 or dependency under Subsection [78A-6-103\(1\)\(b\)](#) may not be committed to the Division of  
5976 Juvenile Justice Services.

5977 (iii) The court may not commit a minor to the Division of Juvenile Justice Services for  
5978 secure confinement for:

5979 (A) contempt of court;

- 5980 (B) a violation of probation;
- 5981 (C) failure to pay a fine, fee, restitution, or other financial obligation;
- 5982 (D) unfinished compensatory or community service hours;
- 5983 (E) an infraction; or
- 5984 (F) a status offense.
- 5985 (e) The court may order nonresidential, diagnostic assessment, including substance use
- 5986 disorder, mental health, psychological, or sexual behavior risk assessment.
- 5987 (f) (i) The court may commit a minor to a place of detention or an alternative to
- 5988 detention for a period not to exceed 30 cumulative days per adjudication subject to the court
- 5989 retaining continuing jurisdiction over the minor. This commitment may not be suspended upon
- 5990 conditions ordered by the court.
- 5991 (ii) This Subsection (2)(f) applies only to a minor adjudicated for:
- 5992 (A) an act which if committed by an adult would be a criminal offense; or
- 5993 (B) contempt of court under Section [78A-6-1101](#).
- 5994 (iii) The court may not commit a minor to a place of detention for:
- 5995 (A) contempt of court except to the extent allowed under Section [78A-6-1101](#);
- 5996 (B) a violation of probation;
- 5997 (C) failure to pay a fine, fee, restitution, or other financial obligation;
- 5998 (D) unfinished compensatory or community service hours;
- 5999 (E) an infraction; or
- 6000 (F) a status offense.
- 6001 (iv) (A) Time spent in detention pre-adjudication shall be credited toward the 30
- 6002 cumulative days eligible as a disposition under Subsection (2)(f)(i). If the minor spent more
- 6003 than 30 days in a place of detention before disposition, the court may not commit a minor to
- 6004 detention under this section.
- 6005 (B) Notwithstanding Subsection (2)(f)(iv)(A), the court may commit a minor for a
- 6006 maximum of seven days while a minor is awaiting placement under Subsection (2)(c)(i). Only
- 6007 the seven days under this Subsection (2)(f)(iv)(B) may be combined with a nonsecure
- 6008 placement.
- 6009 (v) Notwithstanding Subsection (2)(t), no more than seven days of detention may be
- 6010 ordered in combination with an order under Subsection (2)(c)(i).

6011 (g) The court may vest legal custody of an abused, neglected, or dependent minor in  
6012 the Division of Child and Family Services or any other appropriate person in accordance with  
6013 the requirements and procedures of Title 78A, Chapter 6, Part 3, Abuse, Neglect, and  
6014 Dependency Proceedings.

6015 (h) (i) The court may order a minor to repair, replace, or otherwise make restitution for  
6016 material loss caused by the minor's wrongful act or for conduct for which the minor agrees to  
6017 make restitution.

6018 (ii) A victim has the meaning defined under Subsection [77-38a-102](#)(14). A victim of an  
6019 offense that involves as an element a scheme, a conspiracy, or a pattern of criminal activity,  
6020 includes any person directly harmed by the minor's delinquency conduct in the course of the  
6021 scheme, conspiracy, or pattern.

6022 (iii) If the victim and the minor agree to participate, the court may refer the case to a  
6023 restorative justice program such as victim offender mediation to address how loss resulting  
6024 from the adjudicated act may be addressed.

6025 (iv) For the purpose of determining whether and how much restitution is appropriate,  
6026 the court shall consider the following:

6027 (A) restitution shall only be ordered for the victim's material loss;

6028 (B) restitution may not be ordered if the court finds that the minor is unable to pay or  
6029 acquire the means to pay; and

6030 (C) any amount paid by the minor to the victim in civil penalty shall be credited against  
6031 restitution owed.

6032 (v) Any amount paid to the victim in restitution shall be credited against liability in a  
6033 civil suit.

6034 (vi) The court may also require a minor to reimburse an individual, entity, or  
6035 governmental agency who offered and paid a reward to a person or persons for providing  
6036 information resulting in a court adjudication that the minor is within the jurisdiction of the  
6037 juvenile court due to the commission of a criminal offense.

6038 (vii) If a minor is returned to this state under the Interstate Compact on Juveniles, the  
6039 court may order the minor to make restitution for costs expended by any governmental entity  
6040 for the return.

6041 (viii) The prosecutor shall submit a request for restitution to the court at the time of

6042 disposition, if feasible, otherwise within three months after disposition.

6043 (ix) A financial disposition ordered shall prioritize the payment of restitution.

6044 (i) The court may issue orders necessary for the collection of restitution and fines  
6045 ordered by the court, including garnishments, wage withholdings, and executions, except for an  
6046 order that changes the custody of the minor, including detention or other secure or nonsecure  
6047 residential placements.

6048 (j) (i) The court may through its probation department encourage the development of  
6049 nonresidential employment or work programs to enable minors to fulfill their obligations under  
6050 Subsection (2)(h) and for other purposes considered desirable by the court.

6051 (ii) Consistent with the order of the court, the probation officer may permit a minor  
6052 found to be within the jurisdiction of the court to participate in a program of work restitution or  
6053 compensatory service in lieu of paying part or all of the fine imposed by the court.

6054 (iii) The court may order the minor to:

6055 (A) pay a fine, fee, restitution, or other cost; or

6056 (B) complete service hours.

6057 (iv) If the court orders a minor to pay a fine, fee, restitution, or other cost, or to  
6058 complete service hours, those dispositions shall be considered collectively to ensure that the  
6059 order is reasonable and prioritizes restitution.

6060 (v) If the court orders a minor to pay a fine, fee, or other cost, or complete service  
6061 hours, the cumulative order shall be limited per criminal episode as follows:

6062 (A) for children under age 16 at adjudication, the court may impose up to \$180 or up to  
6063 24 hours of service; and

6064 (B) for minors 16 and older at adjudication, the court may impose up to \$270 or up to  
6065 36 hours of service.

6066 (vi) The cumulative order under Subsection (2)(j)(v) does not include restitution.

6067 (vii) If the court converts a fine, fee, or restitution amount to service hours, the rate of  
6068 conversion shall be no less than the minimum wage.

6069 (k) (i) In violations of traffic laws within the court's jurisdiction, when the court finds  
6070 that as part of the commission of the violation the minor was in actual physical control of a  
6071 motor vehicle, the court may, in addition to any other disposition authorized by this section:

6072 (A) restrain the minor from driving for periods of time the court considers necessary;

6073 and

6074 (B) take possession of the minor's driver license.

6075 (ii) The court may enter any other eligible disposition under Subsection (2)(k)(i) except  
6076 for a disposition under Subsection (2)(c), (d), or (f). However, the suspension of driving  
6077 privileges for an offense under Section 78A-6-606 is governed only by Section 78A-6-606.

6078 (l) (i) The court may order a minor to complete community or compensatory service  
6079 hours in accordance with Subsections (2)(j)(iv) and (v).

6080 (ii) When community service is ordered, the presumptive service order shall include  
6081 between five and 10 hours of service.

6082 (iii) Satisfactory completion of an approved substance use disorder prevention or  
6083 treatment program or other court-ordered condition may be credited by the court as  
6084 compensatory service hours.

6085 (iv) When a minor is found within the jurisdiction of the juvenile court under Section  
6086 78A-6-103 because of a violation of Section 76-6-106 or 76-6-206 using graffiti, the court may  
6087 order the minor to clean up graffiti created by the minor or any other person at a time and place  
6088 within the jurisdiction of the court. Compensatory service ordered under this section may be  
6089 performed in the presence and under the direct supervision of the minor's parent or legal  
6090 guardian. The parent or legal guardian shall report completion of the order to the court. The  
6091 court may also require the minor to perform other alternative forms of restitution or repair to  
6092 the damaged property pursuant to Subsection (2)(h).

6093 (m) (i) Subject to Subsection (2)(m)(iii), the court may order that a minor:

6094 (A) be examined or treated by a physician, surgeon, physician assistant, psychiatrist, or  
6095 psychologist; or

6096 (B) receive other special care.

6097 (ii) For purposes of receiving the examination, treatment, or care described in  
6098 Subsection (2)(m)(i), the court may place the minor in a hospital or other suitable facility that is  
6099 not a secure facility or secure detention.

6100 (iii) In determining whether to order the examination, treatment, or care described in  
6101 Subsection (2)(m)(i), the court shall consider:

6102 (A) the desires of the minor;

6103 (B) if the minor is under the age of 18, the desires of the parents or guardian of the

6104 minor; and

6105 (C) whether the potential benefits of the examination, treatment, or care outweigh the  
6106 potential risks and side-effects, including behavioral disturbances, suicidal ideation, brain  
6107 function impairment, or emotional or physical harm resulting from the compulsory nature of  
6108 the examination, treatment, or care.

6109 (iv) The Division of Child and Family Services shall take reasonable measures to  
6110 notify a parent or guardian of any non-emergency health treatment or care scheduled for a  
6111 child, shall include the parent or guardian as fully as possible in making health care decisions  
6112 for the child, and shall defer to the parent's or guardian's reasonable and informed decisions  
6113 regarding the child's health care to the extent that the child's health and well being are not  
6114 unreasonably compromised by the parent's or guardian's decision.

6115 (v) The Division of Child and Family Services shall notify the parent or guardian of a  
6116 child within five business days after a child in the custody of the Division of Child and Family  
6117 Services receives emergency health care or treatment.

6118 (vi) The Division of Child and Family Services shall use the least restrictive means to  
6119 accomplish a compelling interest in the care and treatment of a child described in this  
6120 Subsection (2)(m).

6121 (n) (i) The court may appoint a guardian for the minor if it appears necessary in the  
6122 interest of the minor, and may appoint as guardian a public or private institution or agency, but  
6123 not a nonsecure residential placement provider, in which legal custody of the minor is vested.

6124 (ii) In placing a minor under the guardianship or legal custody of an individual or of a  
6125 private agency or institution, the court shall give primary consideration to the welfare of the  
6126 minor. When practicable, the court may take into consideration the religious preferences of the  
6127 minor and of a child's parents.

6128 (o) (i) In support of a decree under Section [78A-6-103](#), the court may order reasonable  
6129 conditions to be complied with by a minor's parents or guardian, a minor's custodian, or any  
6130 other person who has been made a party to the proceedings. Conditions may include:

6131 (A) parent-time by the parents or one parent;

6132 (B) restrictions on the minor's associates;

6133 (C) restrictions on the minor's occupation and other activities; and

6134 (D) requirements to be observed by the parents or custodian.

6135 (ii) A minor whose parents or guardians successfully complete a family or other  
6136 counseling program may be credited by the court for detention, confinement, or probation time.

6137 (p) The court may order the child to be committed to the physical custody of a local  
6138 mental health authority, in accordance with the procedures and requirements of Title 62A,  
6139 Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and  
6140 Mental Health.

6141 (q) (i) The court may make an order committing a minor within the court's jurisdiction  
6142 to the Utah State Developmental Center if the minor has an intellectual disability in accordance  
6143 with Title 62A, Chapter 5, Part 3, Admission to an Intermediate Care Facility for People with  
6144 an Intellectual Disability.

6145 (ii) The court shall follow the procedure applicable in the district courts with respect to  
6146 judicial commitments to the Utah State Developmental Center when ordering a commitment  
6147 under Subsection (2)(q)(i).

6148 (r) The court may terminate all parental rights upon a finding of compliance with Title  
6149 78A, Chapter 6, Part 5, Termination of Parental Rights Act.

6150 (s) The court may make other reasonable orders for the best interest of the minor and as  
6151 required for the protection of the public, except that a child may not be committed to jail,  
6152 prison, secure detention, or the custody of the Division of Juvenile Justice Services under  
6153 Subsections (2)(c) and (d).

6154 (t) The court may combine the dispositions listed in this section if it is permissible and  
6155 they are compatible.

6156 (u) Before depriving any parent of custody, the court shall give due consideration to the  
6157 rights of parents concerning their child. The court may transfer custody of a minor to another  
6158 person, agency, or institution in accordance with the requirements and procedures of Title 78A,  
6159 Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

6160 (v) Except as provided in Subsection (2)(x)(i), an order under this section for probation  
6161 or placement of a minor with an individual or an agency shall include a date certain for a  
6162 review and presumptive termination of the case by the court in accordance with Subsection (6)  
6163 and Section [62A-7-404](#). A new date shall be set upon each review.

6164 (w) In reviewing foster home placements, special attention shall be given to making  
6165 adoptable children available for adoption without delay.

6166 (x) (i) The juvenile court may enter an order of permanent custody and guardianship  
6167 with an individual or relative of a child where the court has previously acquired jurisdiction as  
6168 a result of an adjudication of abuse, neglect, or dependency. The juvenile court may enter an  
6169 order for child support on behalf of the child against the natural or adoptive parents of the  
6170 child.

6171 (ii) Orders under Subsection (2)(x)(i):

6172 (A) shall remain in effect until the child reaches majority;

6173 (B) are not subject to review under Section 78A-6-118; and

6174 (C) may be modified by petition or motion as provided in Section 78A-6-1103.

6175 (iii) Orders permanently terminating the rights of a parent, guardian, or custodian and  
6176 permanent orders of custody and guardianship do not expire with a termination of jurisdiction  
6177 of the juvenile court.

6178 (3) In addition to the dispositions described in Subsection (2), when a minor comes  
6179 within the court's jurisdiction, the minor may be given a choice by the court to serve in the  
6180 National Guard in lieu of other sanctions, provided:

6181 (a) the minor meets the current entrance qualifications for service in the National  
6182 Guard as determined by a recruiter, whose determination is final;

6183 (b) the minor is not under the jurisdiction of the court for any act that:

6184 (i) would be a felony if committed by an adult;

6185 (ii) is a violation of Title 58, Chapter 37, Utah Controlled Substances Act; or

6186 (iii) was committed with a weapon; and

6187 (c) the court retains jurisdiction over the minor under conditions set by the court and  
6188 agreed upon by the recruiter or the unit commander to which the minor is eventually assigned.

6189 (4) (a) A DNA specimen shall be obtained from a minor who is under the jurisdiction  
6190 of the court as described in Subsection 53-10-403(3). The specimen shall be obtained by  
6191 designated employees of the court or, if the minor is in the legal custody of the Division of  
6192 Juvenile Justice Services, then by designated employees of the division under Subsection  
6193 53-10-404(5)(b).

6194 (b) The responsible agency shall ensure that employees designated to collect the saliva  
6195 DNA specimens receive appropriate training and that the specimens are obtained in accordance  
6196 with accepted protocol.

6197 (c) Reimbursements paid under Subsection 53-10-404(2)(a) shall be placed in the DNA  
6198 Specimen Restricted Account created in Section 53-10-407.

6199 (d) Payment of the reimbursement is second in priority to payments the minor is  
6200 ordered to make for restitution under this section and treatment under Section 78A-6-321.

6201 (5) (a) A disposition made by the court pursuant to this section may not be suspended,  
6202 except for the following:

6203 (i) If a minor qualifies for commitment to the Division of Juvenile Justice Services  
6204 under Subsection (2)(c) or (d), the court may suspend a custody order pursuant to Subsection  
6205 (2)(c) or (d) in lieu of immediate commitment, upon the condition that the minor commit no  
6206 new misdemeanor or felony offense during the three months following the day of disposition.

6207 (ii) The duration of a suspended custody order made under Subsection (5)(a)(i) may not  
6208 exceed three months post-disposition and may not be extended under any circumstance.

6209 (iii) The court may only impose a custody order suspended under Subsection (5)(a)(i)  
6210 following adjudication of a new misdemeanor or felony offense committed by the minor during  
6211 the period of suspension set out under Subsection (5)(a)(ii) or if a new assessment or  
6212 evaluation has been completed and recommends that a higher level of care is needed and  
6213 nonresidential treatment options have been exhausted or nonresidential treatment options are  
6214 not appropriate.

6215 (iv) A suspended custody order may not be imposed without notice to the minor, notice  
6216 to counsel, and a hearing.

6217 (b) The court pursuant to Subsection (5)(a) shall terminate jurisdiction over the minor  
6218 at the end of the presumptive time frame unless at least one the following circumstances exists:

6219 (i) termination pursuant to Subsection (6)(a)(ii) would interrupt the completion of a  
6220 program determined to be necessary by the results of a validated risk and needs assessment  
6221 with completion found by the court after considering the recommendation of a licensed service  
6222 provider on the basis of the minor completing the goals of the necessary treatment program;

6223 (ii) the minor commits a new misdemeanor or felony offense;

6224 (iii) service hours have not been completed; or

6225 (iv) there is an outstanding fine.

6226 (6) When the court places a minor on probation under Subsection (2)(a) or vests legal  
6227 custody of the minor in the Division of Juvenile Justice Services under Subsection (2)(c), the

6228 court shall do so for a defined period of time pursuant to this section.

6229 (a) For the purposes of placing a minor on probation under Subsection (2)(a), the court  
6230 shall establish a presumptive term of probation as specified in this Subsection (6):

6231 (i) the presumptive maximum length of intake probation may not exceed three months;  
6232 and

6233 (ii) the presumptive maximum length of formal probation may not exceed four to six  
6234 months.

6235 (b) For the purposes of vesting legal custody of the minor in the Division of Juvenile  
6236 Justice Services under Subsection (2)(c), the court shall establish a maximum term of custody  
6237 and a maximum term of aftercare as specified in this Subsection (6):

6238 (i) the presumptive maximum length of out-of-home placement may not exceed three  
6239 to six months; and

6240 (ii) the presumptive maximum length of aftercare supervision, for those previously  
6241 placed out-of-home, may not exceed three to four months, and minors may serve the term of  
6242 aftercare in the home of a qualifying relative or guardian or at an independent living program  
6243 contracted or operated by the Division of Juvenile Justice Services.

6244 (c) The court pursuant to Subsections (6)(a) and (b), and the Youth Parole Authority  
6245 pursuant to Subsection (6)(b), shall terminate jurisdiction over the minor at the end of the  
6246 presumptive time frame unless at least one of the following circumstances exists:

6247 (i) termination pursuant to Subsection (6)(a)(ii) would interrupt the completion of a  
6248 court ordered program determined to be necessary by the results of a validated assessment, with  
6249 completion found by the court after considering the recommendations of a licensed service  
6250 provider or facilitator of court ordered treatment or intervention program on the basis of the  
6251 minor completing the goals of the necessary treatment program;

6252 (ii) termination pursuant to Subsection (6)(a)(i) or (6)(b) would interrupt the  
6253 completion of a program determined to be necessary by the results of a validated assessment,  
6254 with completion determined on the basis of whether the minor has regularly and consistently  
6255 attended the treatment program and completed the goals of the necessary treatment program as  
6256 determined by the court or Youth Parole Authority after considering the recommendation of a  
6257 licensed service provider or facilitator of court ordered treatment or intervention program;

6258 (iii) the minor commits a new misdemeanor or felony offense;

6259 (iv) service hours have not been completed; or

6260 (v) there is an outstanding fine.

6261 (d) (i) Subject to Subsection (6)(g), if one of the circumstances under Subsection  
6262 (6)(c)(i), (ii), (iii), or (iv) exists, the court may extend jurisdiction for the time needed to  
6263 address the specific circumstance.

6264 (ii) Subject to Subsection (6)(g), if one of the circumstances under Subsection (6)(c)(i),  
6265 (ii), (iii), or (iv) exists, and the Youth Parole Authority has jurisdiction, the Youth Parole  
6266 Authority may extend jurisdiction for the time needed to address the specific circumstance.

6267 (e) If the circumstance under Subsection (6)(c)(iv) exists, the court, or the Youth  
6268 Parole Authority if the Youth Parole Authority has jurisdiction, may extend jurisdiction one  
6269 time for up to three months.

6270 (f) Grounds for extension of the presumptive length of supervision or placement and  
6271 the length of any extension shall be recorded in the court record or records of the Youth Parole  
6272 Authority if the Youth Parole Authority has jurisdiction, and tracked in the data system used by  
6273 the Administrative Office of the Courts and the Division of Juvenile Justice Services.

6274 (g) (i) For a minor who is under the supervision of the juvenile court and whose  
6275 supervision is extended to complete service hours under Subsection (6)(c)(iv), jurisdiction may  
6276 only be continued under the supervision of intake probation.

6277 (ii) For a minor who is under the jurisdiction of the Youth Parole Authority whose  
6278 supervision is extended to complete service hours under Subsection (6)(c)(iv), jurisdiction may  
6279 only be continued on parole and not in secure confinement.

6280 (h) In the event of an unauthorized leave lasting more than 24 hours, the supervision  
6281 period shall toll until the minor returns.

6282 (7) Subsection (6) does not apply to any minor adjudicated under this section for:

6283 (a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

6284 (b) Section 76-5-202, attempted aggravated murder;

6285 (c) Section 76-5-203, murder or attempted murder;

6286 (d) Section 76-5-302, aggravated kidnapping;

6287 (e) Section 76-5-405, aggravated sexual assault;

6288 (f) a felony violation of Section 76-6-103, aggravated arson;

6289 (g) Section 76-6-203, aggravated burglary;

6290 (h) Section 76-6-302, aggravated robbery;  
6291 (i) Section 76-10-508.1, felony discharge of a firearm; or  
6292 (j) an offense other than those listed in Subsections (7)(a) through (i) involving the use  
6293 of a dangerous weapon, as defined in Section 76-1-601, that is a felony, and the minor has been  
6294 previously adjudicated or convicted of an offense involving the use of a dangerous weapon.

6295 Section 97. Section 78A-6-301.5 is amended to read:

6296 **78A-6-301.5. Second medical opinion.**

6297 (1) In cases of alleged medical neglect where the division seeks protective custody,  
6298 temporary custody, or custody of the child based on the report or testimony of a physician or  
6299 physician assistant, a parent or guardian shall have a reasonable amount of time, as determined  
6300 by the court, to obtain a second medical opinion from another physician or physician assistant  
6301 of the parent's or guardian's choosing who has expertise in the applicable field.

6302 (2) Unless there is an imminent risk of death or a deteriorating condition of the child's  
6303 health, the child shall remain in the custody of the parent or guardian while the parent or  
6304 guardian obtains a second medical opinion.

6305 (3) If the second medical opinion results in a different diagnosis or treatment  
6306 recommendation from that of the opinion of the physician or physician assistant the division  
6307 used, the court shall give deference to the second medical opinion as long as that opinion is  
6308 reasonable and informed and is consistent with treatment that is regularly prescribed by  
6309 medical experts in the applicable field.

6310 (4) Subsections (1) through (3) do not apply to emergency treatment or care when the  
6311 child faces an immediate threat of death or serious and irreparable harm and when there is  
6312 insufficient time to safely allow the parent or guardian to provide alternative necessary care and  
6313 treatment of the parent's or guardian's choosing.

6314 Section 98. Section 78B-1-137 is amended to read:

6315 **78B-1-137. Witnesses -- Privileged communications.**

6316 There are particular relations in which it is the policy of the law to encourage  
6317 confidence and to preserve it inviolate. Therefore, a person cannot be examined as a witness in  
6318 the following cases:

6319 (1) (a) Neither a wife nor a husband may either during the marriage or afterwards be,  
6320 without the consent of the other, examined as to any communication made by one to the other

6321 during the marriage.

6322 (b) This exception does not apply:

6323 (i) to a civil action or proceeding by one spouse against the other;

6324 (ii) to a criminal action or proceeding for a crime committed by one spouse against the  
6325 other;

6326 (iii) to the crime of deserting or neglecting to support a spouse or child;

6327 (iv) to any civil or criminal proceeding for abuse or neglect committed against the child  
6328 of either spouse; or

6329 (v) if otherwise specifically provided by law.

6330 (2) An attorney cannot, without the consent of the client, be examined as to any

6331 communication made by the client to the attorney or any advice given regarding the

6332 communication in the course of the professional employment. An attorney's secretary,

6333 stenographer, or clerk cannot be examined, without the consent of the attorney, concerning any

6334 fact, the knowledge of which has been acquired as an employee.

6335 (3) A member of the clergy or priest cannot, without the consent of the person making

6336 the confession, be examined as to any confession made to either of them in their professional

6337 character in the course of discipline enjoined by the church to which they belong.

6338 (4) A physician [~~or~~], surgeon, or physician assistant cannot, without the consent of the

6339 patient, be examined in a civil action as to any information acquired in attending the patient

6340 which was necessary to enable the physician [~~or~~], surgeon, or physician assistant to prescribe or

6341 act for the patient. However, this privilege shall be waived by the patient in an action in which

6342 the patient places the patient's medical condition at issue as an element or factor of the claim or

6343 defense. Under those circumstances, a physician [~~or~~], surgeon, or physician assistant who has

6344 prescribed for or treated that patient for the medical condition at issue may provide

6345 information, interviews, reports, records, statements, memoranda, or other data relating to the

6346 patient's medical condition and treatment which are placed at issue.

6347 (5) A public officer cannot be examined as to communications made in official

6348 confidence when the public interests would suffer by the disclosure.

6349 (6) A sexual assault counselor as defined in Section [77-38-203](#) cannot, without the

6350 consent of the victim, be examined in a civil or criminal proceeding as to any confidential

6351 communication as defined in Section [77-38-203](#) made by the victim.

6352 Section 99. Section **78B-2-114** is amended to read:

6353 **78B-2-114. Separate trial of statute of limitations issue in malpractice actions.**

6354 (1) An issue raised by the defense regarding the statute of limitations in a case may be  
6355 tried separately if the action is for professional negligence or for rendering professional  
6356 services without consent, and against:

6357 (a) a physician;

6358 (b) a surgeon;

6359 (c) a physician assistant;

6360 [~~(c)~~] (d) a dentist;

6361 [~~(d)~~] (e) an osteopathic physician;

6362 [~~(e)~~] (f) a chiropractor;

6363 [~~(f)~~] (g) a physical therapist;

6364 [~~(g)~~] (h) a registered nurse;

6365 [~~(h)~~] (i) a clinical laboratory bioanalyst;

6366 [~~(i)~~] (j) a clinical laboratory technologist; or

6367 [~~(j)~~] (k) a licensed hospital, person, firm, or corporation as the employer of any of the  
6368 persons in Subsection (1)(a) through [~~(j)~~] (j).

6369 (2) The issue raised may be tried before any other issues in the case are tried. If the  
6370 issue raised by the defense of the statute of limitations is finally determined in favor of the  
6371 plaintiff, the remaining issues shall then be tried.

6372 Section 100. Section **78B-3-403** is amended to read:

6373 **78B-3-403. Definitions.**

6374 As used in this part:

6375 (1) "Audiologist" means a person licensed to practice audiology under Title 58,  
6376 Chapter 41, Speech-Language Pathology and Audiology Licensing Act.

6377 (2) "Certified social worker" means a person licensed to practice as a certified social  
6378 worker under Section [58-60-205](#).

6379 (3) "Chiropractic physician" means a person licensed to practice chiropractic under  
6380 Title 58, Chapter 73, Chiropractic Physician Practice Act.

6381 (4) "Clinical social worker" means a person licensed to practice as a clinical social  
6382 worker under Section [58-60-205](#).

6383 (5) "Commissioner" means the commissioner of insurance as provided in Section  
6384 31A-2-102.

6385 (6) "Dental hygienist" means a person licensed to engage in the practice of dental  
6386 hygiene as defined in Section 58-69-102.

6387 (7) "Dentist" means a person licensed to engage in the practice of dentistry as defined  
6388 in Section 58-69-102.

6389 (8) "Division" means the Division of Occupational and Professional Licensing created  
6390 in Section 58-1-103.

6391 (9) "Future damages" includes a judgment creditor's damages for future medical  
6392 treatment, care or custody, loss of future earnings, loss of bodily function, or future pain and  
6393 suffering.

6394 (10) "Health care" means any act or treatment performed or furnished, or which should  
6395 have been performed or furnished, by any health care provider for, to, or on behalf of a patient  
6396 during the patient's medical care, treatment, or confinement.

6397 (11) "Health care facility" means general acute hospitals, specialty hospitals, home  
6398 health agencies, hospices, nursing care facilities, assisted living facilities, birthing centers,  
6399 ambulatory surgical facilities, small health care facilities, health care facilities owned or  
6400 operated by health maintenance organizations, and end stage renal disease facilities.

6401 (12) "Health care provider" includes any person, partnership, association, corporation,  
6402 or other facility or institution who causes to be rendered or who renders health care or  
6403 professional services as a hospital, health care facility, physician, physician assistant, registered  
6404 nurse, licensed practical nurse, nurse-midwife, licensed direct-entry midwife, dentist, dental  
6405 hygienist, optometrist, clinical laboratory technologist, pharmacist, physical therapist, physical  
6406 therapist assistant, podiatric physician, psychologist, chiropractic physician, naturopathic  
6407 physician, osteopathic physician, osteopathic physician and surgeon, audiologist,  
6408 speech-language pathologist, clinical social worker, certified social worker, social service  
6409 worker, marriage and family counselor, practitioner of obstetrics, licensed athletic trainer, or  
6410 others rendering similar care and services relating to or arising out of the health needs of  
6411 persons or groups of persons and officers, employees, or agents of any of the above acting in  
6412 the course and scope of their employment.

6413 (13) "Hospital" means a public or private institution licensed under Title 26, Chapter

6414 21, Health Care Facility Licensing and Inspection Act.

6415 (14) "Licensed athletic trainer" means a person licensed under Title 58, Chapter 40a,  
6416 Athletic Trainer Licensing Act.

6417 (15) "Licensed direct-entry midwife" means a person licensed under the Direct-entry  
6418 Midwife Act to engage in the practice of direct-entry midwifery as defined in Section  
6419 [58-77-102](#).

6420 (16) "Licensed practical nurse" means a person licensed to practice as a licensed  
6421 practical nurse as provided in Section [58-31b-301](#).

6422 (17) "Malpractice action against a health care provider" means any action against a  
6423 health care provider, whether in contract, tort, breach of warranty, wrongful death, or  
6424 otherwise, based upon alleged personal injuries relating to or arising out of health care rendered  
6425 or which should have been rendered by the health care provider.

6426 (18) "Marriage and family therapist" means a person licensed to practice as a marriage  
6427 therapist or family therapist under Sections [58-60-305](#) and [58-60-405](#).

6428 (19) "Naturopathic physician" means a person licensed to engage in the practice of  
6429 naturopathic medicine as defined in Section [58-71-102](#).

6430 (20) "Nurse-midwife" means a person licensed to engage in practice as a nurse midwife  
6431 under Section [58-44a-301](#).

6432 (21) "Optometrist" means a person licensed to practice optometry under Title 58,  
6433 Chapter 16a, Utah Optometry Practice Act.

6434 (22) "Osteopathic physician" means a person licensed to practice osteopathy under  
6435 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

6436 (23) "Patient" means a person who is under the care of a health care provider, under a  
6437 contract, express or implied.

6438 (24) "Periodic payments" means the payment of money or delivery of other property to  
6439 a judgment creditor at intervals ordered by the court.

6440 (25) "Pharmacist" means a person licensed to practice pharmacy as provided in Section  
6441 [58-17b-301](#).

6442 (26) "Physical therapist" means a person licensed to practice physical therapy under  
6443 Title 58, Chapter 24b, Physical Therapy Practice Act.

6444 (27) "Physical therapist assistant" means a person licensed to practice physical therapy,

6445 within the scope of a physical therapist assistant license, under Title 58, Chapter 24b, Physical  
6446 Therapy Practice Act.

6447 (28) "Physician" means a person licensed to practice medicine and surgery under Title  
6448 58, Chapter 67, Utah Medical Practice Act.

6449 (29) "Physician assistant" means a person licensed to practice as a physician assistant  
6450 under Title 58, Chapter 70a, Utah Physician Assistant Act.

6451 [~~(29)~~] (30) "Podiatric physician" means a person licensed to practice podiatry under  
6452 Title 58, Chapter 5a, Podiatric Physician Licensing Act.

6453 [~~(30)~~] (31) "Practitioner of obstetrics" means a person licensed to practice as a  
6454 physician in this state under Title 58, Chapter 67, Utah Medical Practice Act, or under Title 58,  
6455 Chapter 68, Utah Osteopathic Medical Practice Act.

6456 [~~(31)~~] (32) "Psychologist" means a person licensed under Title 58, Chapter 61,  
6457 Psychologist Licensing Act, to engage in the practice of psychology as defined in Section  
6458 [58-61-102](#).

6459 [~~(32)~~] (33) "Registered nurse" means a person licensed to practice professional nursing  
6460 as provided in Section [58-31b-301](#).

6461 [~~(33)~~] (34) "Relative" means a patient's spouse, parent, grandparent, stepfather,  
6462 stepmother, child, grandchild, brother, sister, half brother, half sister, or spouse's parents. The  
6463 term includes relationships that are created as a result of adoption.

6464 [~~(34)~~] (35) "Representative" means the spouse, parent, guardian, trustee,  
6465 attorney-in-fact, person designated to make decisions on behalf of a patient under a medical  
6466 power of attorney, or other legal agent of the patient.

6467 [~~(35)~~] (36) "Social service worker" means a person licensed to practice as a social  
6468 service worker under Section [58-60-205](#).

6469 [~~(36)~~] (37) "Speech-language pathologist" means a person licensed to practice  
6470 speech-language pathology under Title 58, Chapter 41, Speech-Language Pathology and  
6471 Audiology Licensing Act.

6472 [~~(37)~~] (38) "Tort" means any legal wrong, breach of duty, or negligent or unlawful act  
6473 or omission proximately causing injury or damage to another.

6474 [~~(38)~~] (39) "Unanticipated outcome" means the outcome of a medical treatment or  
6475 procedure that differs from an expected result.